NORTH DAKOTA JUDICIAL COUNCIL

Annual Report

1981

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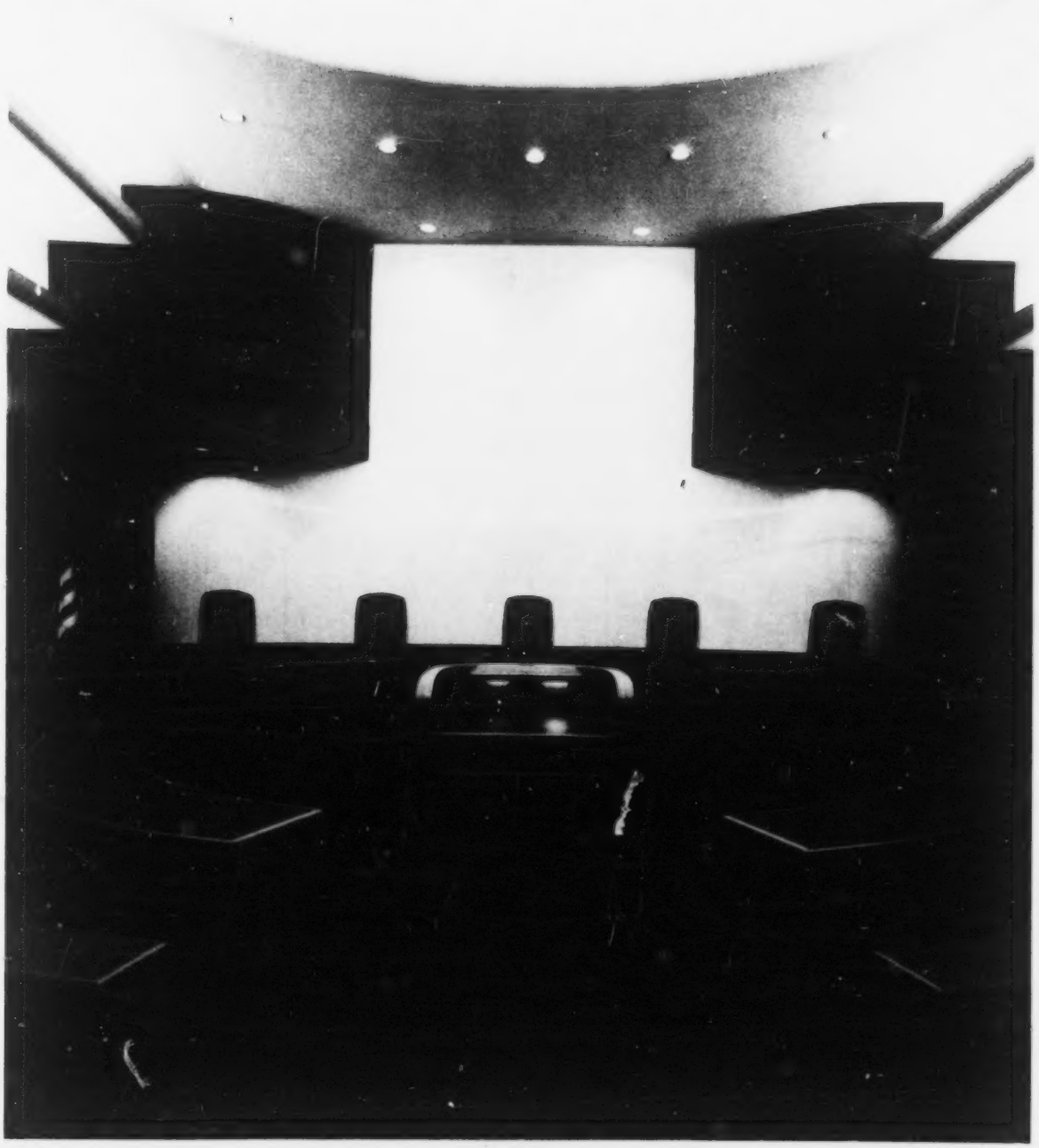

In Appreciation

The North Dakota Judicial Council wishes to express its appreciation to two Presiding Judges, Judge Roy A. Ilvedson and Judge Norbert J. Muggli, who recently retired from the district court bench. Judge Ilvedson retired in January, 1980, and Judge Muggli retired in August, 1981.

Judge Roy A. Ilvedson

Judge Ilvedson served nineteen years as a district court judge. He was appointed to the district court bench in 1949 and served until 1951 when he returned to private practice. He was elected to the office of district court judge in 1962 and served in that position until his retirement in 1980. During his illustrious career on the bench, Judge Ilvedson served as a Presiding Judge of the Northwest Judicial District from 1974 to 1980. He also served as Chairman of the Presiding Judges of the District Court during his six years as a Presiding Judge.

Judge Norbert J. Muggli

Judge Muggli's distinguished judicial career began in 1965 following his election to the district court. He served as a district court judge for sixteen years. From 1974 to 1981, Judge Muggli served as the Presiding Judge for the Southwest Judicial District. Before beginning his judicial career, Judge Muggli served four terms as the State's Attorney for Stark County and was a member of the North Dakota House of Representatives during the 1957 and 1959 legislative sessions.

The services that both men have rendered to the state and the judiciary are deeply appreciated.

State of North Dakota
JUDICIAL COUNCIL

WILLIAM G. BOHN
EXEC SECY AND TREAS

STATE CAPITOL
BISMARCK, NORTH DAKOTA 58505
(701) 224-2221

TO THE HONORABLE CHIEF JUSTICE
AND JUSTICES OF THE SUPREME COURT
OF THE STATE OF NORTH DAKOTA:

TO THE HONORABLE MEMBERS OF THE
NORTH DAKOTA JUDICIAL COUNCIL:

Once again, I am pleased to submit to you the Annual Report of the North Dakota Judicial Council for the period of January 1 through December 31, 1981.

This report highlights the activities of the North Dakota judicial system during 1981. It provides statistical information on our courts and reports on other developments and activities which are shaping our judicial system. It will prove very valuable as a reference source for anyone wishing to learn about the operation of the judicial system in North Dakota.

I take this opportunity to publicly acknowledge the valuable assistance and cooperation extended to me by the judges and court personnel whose reports provided the information contained in the Annual Report. Particular thanks go to the staff of the State Court Administrator's Office for their diligent work in compiling the statistics and designing the format for this work.

Respectfully submitted,

William G. Bohn

WILLIAM G. BOHN
State Court Administrator and
Judicial Council Executive Secretary

WGB/kas

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The Judicial Branch, Tomorrow

DEAN WINKJER

"The judicial power of the state is vested in a unified judicial system consisting of a supreme court, a district court, and such other courts as may be provided by law."
(Article VI, Section 1, North Dakota Constitution)

Since statehood the judicial branch has been a separate branch of state government. Since 1976, when the current language of the judicial article was adopted by the people, we have had a unified judicial system mandated but not implemented.

The actual unification required action by the people's branch of state government, the legislature. With the 47th session of the North Dakota Legislature and the passage of House Bill 1060, we have begun the unification process which will be ongoing to meet the ever changing role mandated by the ever changing needs of the people in a state of self-governance.

With the passage of 1060, the beginning of the implementation process, the judiciary has now the opportunity to strengthen its role, and its necessary function as a separate but equal branch of state government.

To further accomplish its role, the judicial branch of government must become involved in politics, but "politics" in the judicial role must be defined as an "art or science of government".

To continue the process of unification and the strengthening of the judiciary, the judges must engage in the "politics" of human relations to the extent that the judiciary continues to be a separate but equal branch of state government. In the past the judiciary has been much too timid in this political process, particularly when the situation required judicial acknowledgement that it is an equal part of a three-branch system of government and that it has inherent executive and legislative power.

We had no difficulty acknowledging inherent power within the executive branch when the North Dakota Supreme Court held: "The Legislature nor the people can, without a constitutional amendment, refuse to fund a constitutionally mandated function." That conclusion was reached in **State ex rel. Walker v. Link**, 232 NW2d 823 (N.D. 1975).

The judiciary has recognized this function in the areas of evidence, pleading, and practice. With the concurrence of the legislative branch of government, it has summarily cancelled statutes of evidence and statutes of practice and statutes of appeal and through the exercise of its inherent and constitutional authority adopted "legislation" to govern within the perimeters of the judicial branch.

A political philosopher once said: "For forms of government let fools contest, that which is best administered, is best." The court, and we the officers of the court, have spent much time and consumed a great deal of energy changing the "form of government". It could not have been avoided. The future must necessarily strengthen the judiciary through the continuation of a "best administration" process that will continue to recognize the obligation and the responsibility of the judiciary to continue to maintain its separate but equal status.

About the Author

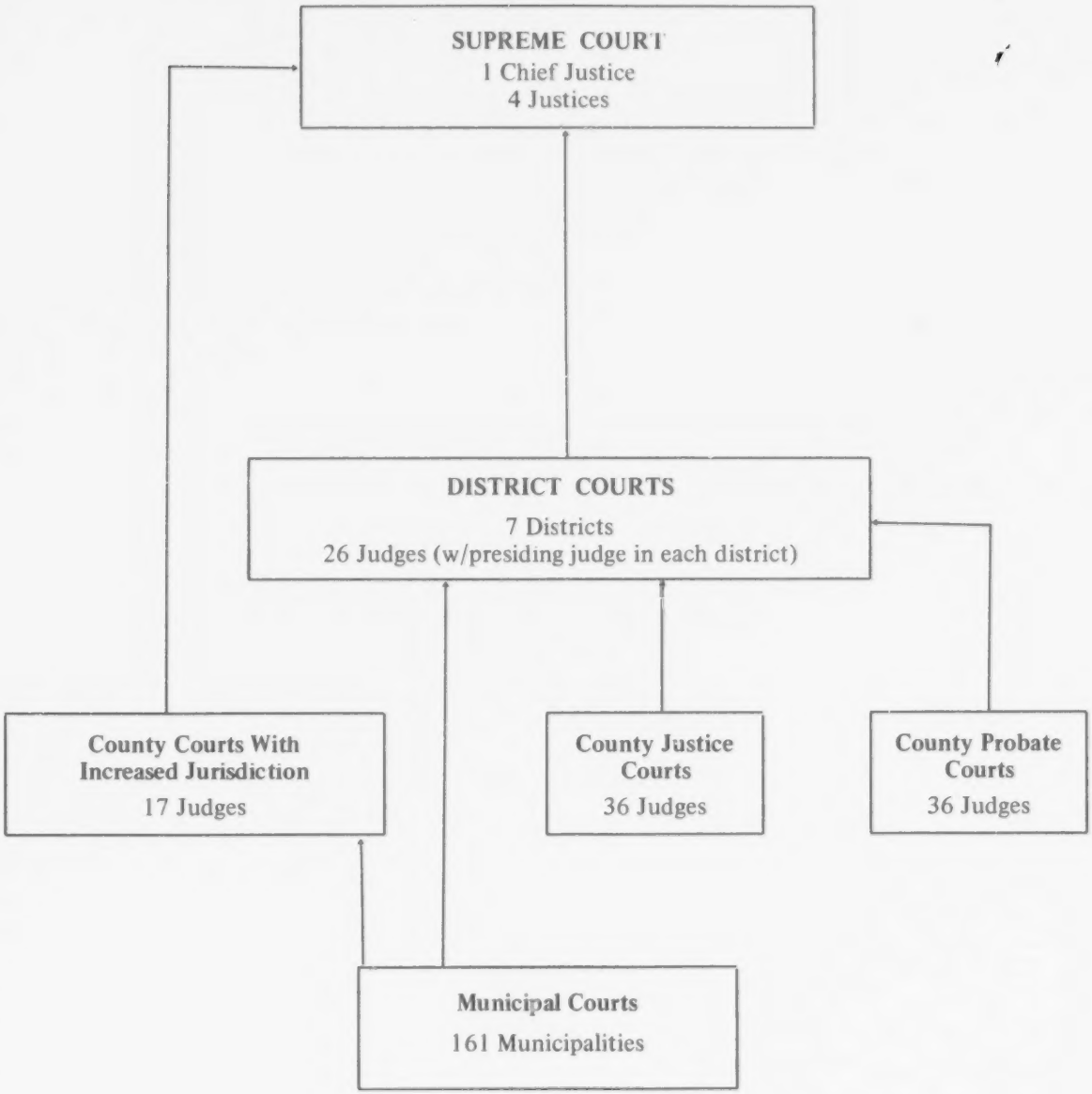
Dean Winkjer is a practicing attorney in Williston, North Dakota. He is currently a member of the law firm of Rolfstad, Winkjer, McKennet, Kaiser and Stenehjem.

Mr. Winkjer served four terms (1972-1980) in the North Dakota House of Representatives. While in the House, he was chairman of the House Judiciary Committee for two terms. He also chaired Judiciary Committee A of the Legislative Council, which drafted House Bill 1060, commonly referred to as the county courts' bill.

Mr. Winkjer has also served on the Board of Governors of the State Bar Association of North Dakota and as chairman of the Ethics Committee of the State Bar Association.

FIGURE 1

The Court Structure of the North Dakota Judicial System



A Profile of the North Dakota Judicial System

Structure of the Court System

The original constitution of the State of North Dakota created a judicial system consisting of the supreme court, district courts, justice of the peace courts, and such municipal courts as provided by the legislature. This judicial structure remained intact until 1959 when the Legislature abolished the justice of peace courts in the state.

The adoption of a revamped judicial article to the state constitution in 1976 significantly modified the constitutional structure of the judicial system. The new judicial article vested the judicial powers of the state in a unified judicial system consisting of a supreme court, district courts, and such other courts as provided by law. Thus, under the new judicial article, only the supreme court and the district courts have retained their status as constitutional courts. All other courts in the state are statutory courts.

In 1981 the Legislature further altered the structure of the judicial system by enacting legislation which replaces the present multi-level county court structure with a uniform system of county courts throughout the state. This new county court structure becomes effective on January 1, 1983.

Once the new county court system is in place, the judicial system of the state will consist of the supreme court, district courts, county courts, and municipal courts. Figure 1 provides a diagram of the present court structure of the North Dakota judicial system.

Administrative Authority

In addition to these structural changes, the new judicial article clarified the administrative responsibilities of the supreme court by designating the Chief Justice as the administrative head of the judicial system and by granting the Chief Justice the authority to assign judges for temporary duty in any nonfederal court in the state. It also acknowledged the supreme court's rulemaking authority in such areas as court procedure and attorney supervision. A diagram of the administrative structure of the North Dakota judicial system is presented in Figure 8.

Selection and Removal of Judges

All judges in North Dakota are elected in nonpartisan elections. Justices of the supreme court are elected for ten-year terms; district court judges for six-year terms, and all other judges for four-year terms.

Vacancies in the supreme court and the district courts can be filled either by a special election called by the governor or by gubernatorial appointment. However, before a vacancy can be filled by gubernatorial appointment, the Judicial Nominating Committee must first submit a list of nominees to the governor from which the governor makes an appointment. Whether the vacancy is filled by a special election or by appointment, the person filling the judicial vacancy serves only until the next general election. The person elected to the office at the general election serves for the remainder of the unexpired term.

Vacancies in the various county courts are filled by the board of county commissioners of the county where the vacancy occurs. Similarly, if a vacancy occurs in a municipal court, it is filled by the executive officer of the municipality with the consent of the governing body of the municipality.

Under the North Dakota Constitution only supreme court justices and district court judges can be removed from office by impeachment. All judges, however, are subject to removal, censure, suspension, retirement or other disciplinary action for misconduct by the supreme court upon the recommendation of the Judicial Qualifications Commission. Other methods for the retirement, removal and discipline of judges can be established by the legislature.

Caseload Overview

In 1981, the total caseload for all courts in the state declined by more than 10 percent. This is a reversal of the previous upward trend in case filings that had been experienced throughout the judicial system until this year. The decrease brings the caseload down to the caseload level of 1979.

The decline in the total filings for all courts is due to the large reduction in traffic cases filed in the limited jurisdiction courts. Both the supreme court and the district courts have continued to experience caseload growth, although at a much lower level than in previous years.

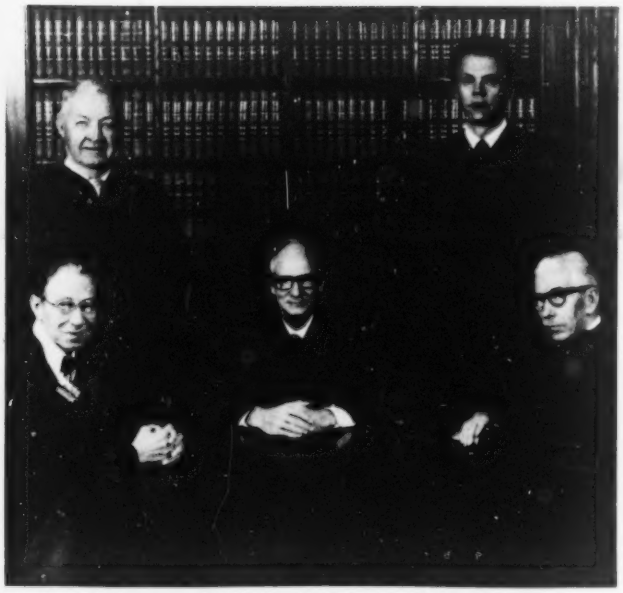
Dispositions have followed the same pattern as filings, reflecting the influence of the reduced number of traffic cases processed by the courts of limited jurisdiction. Because dispositions continue to lag behind filings, the number of cases pending at the end of the term also continues to grow each year.

Table 1 provides a general overview of caseload components for the difficult levels of court for the last two years. A more detailed analysis of the caseloads of specific courts for 1980 and 1981 will be provided throughout this report.

TABLE 1
A CASELOAD COMPARISON OF NORTH DAKOTA COURTS
FOR THE 1980 AND 1981 CALENDAR YEARS

Level of Court	Filings		Dispositions		Pending at Year's End	
	1981	1980	1981	1980	1981	1980
Supreme Court	309	294	280	257	154	125
Courts of General Jurisdiction	15,044	14,367	15,050	13,925	5,752	5,758
Courts of Limited Jurisdiction	153,351	173,822	151,519	172,972	17,313	15,481
TOTAL	**168,704**	**188,483**	**166,849**	**187,154**	**23,219**	**21,364**

Supreme Court of North Dakota



Left to Right: Justice Paul M. Sand; Justice William L. Paulson; Chief Justice Ralph J. Erickstad; Justice Gerald W. VandeWalle; and Justice Vernon R. Pederson.

The North Dakota Supreme Court has five justices. Each justice is elected for a ten-year term in a nonpartisan election. The terms of the justices are staggered so that only one judgeship is scheduled for election every two years. Each justice must be a licensed attorney, at least thirty years of age at the time he assumes office, and a citizen of the United States and North Dakota.

One member of the supreme court is selected as chief justice by the justices of the supreme court and the district court judges. The chief justice's term is for five years or until his elected term on the court expires. The chief justice's duties include presiding over supreme court conferences, representing the judiciary at official state functions, and serving as the administrative head of the judicial system.

The North Dakota Supreme Court is the highest court for the State of North Dakota. It has two major types of responsibilities: (1) adjudicative and (2) administrative.

In its adjudicative capacity, the supreme court is primarily an appellate court with jurisdiction to hear appeals from decisions of the district courts and the county courts with increased jurisdiction. All appeals from these courts must be accepted for review by the court. In addition, the court also has original jurisdiction authority and can issue such original and remedial writs as are necessary to exercise this authority.

The state constitution requires that a quorum, composed of a majority of the justices, is necessary before the court can conduct its judicial business. It also stipulates that the court cannot declare a legislative enactment unconstitutional unless four of the justices so decide. When the court decides an appeal, it is required to issue an opinion stating the rationale for its decision. Any justice disagreeing with the majority decision may issue a dissenting opinion which explains the reasons for the disagreement with the majority.

In its administrative capacity, the supreme court has major responsibilities for ensuring the efficient and effective operation of all nonfederal courts in the state, for maintaining high standards of judicial conduct, for supervising the legal profession, and for promulgating procedural rules which allow for the orderly and efficient transaction of judicial business. Within each area of administrative responsibility, the court has general rulemaking authority.

The court carries out its administrative responsibilities with the assistance of various committees and boards. It exercises its authority to admit and license attorneys through the State Bar Board. Its supervision of legal ethics is exercised through the Disciplinary Board of the Supreme Court and its supervision of judicial conduct is exercised through the Judicial Qualifications Commission. Continuing review and study of specific subject areas within its administrative jurisdiction are provided through four advisory committees-the Joint Preocedure Committee, the Attorney Standards Committee, the Judiciary Standards Committee and the Court Services Administration Committee. Other committees, such as the Judicial Planning Committee and the Committee on Judicial Training, also provide valuable assistance to the supreme court in important administrative areas.

Administrative personnel of the supreme court also play a vital role in helping the court fulfill its administrative functions. The clerk of the supreme court supervises the calendaring and assignment of cases, oversees the distribution and publication of supreme court opinions and administrative rules and orders, and decides certain procedural motions filed with the court. The state court administrator assists the court in the preparation of the judicial budget, prepares statistical reports on the workload of the state's courts, provides for judicial educational services, and performs such other administrative duties that are assigned to him by the supreme court. The state law librarian supervises the operation of the state law library and serves as bailiff of the court when the court is in session.

The Workload of the Supreme Court

by Luella Dunn, Clerk of the Supreme Court

During the decade 1970-1980 the Supreme Court saw its caseload grow by a dramatic 384%. While the caseload continued to rise in 1981, the increase was much smaller than in previous years. It should be noted, however, that the September term of court opened with 65 hearings scheduled, a record-setting number. The previous high for a September term was 38. A comparison of the different dimensions of the Supreme Court caseload for 1980 and 1981 is provided in Table 2.

TABLE 2

CASELOAD SYNOPSIS OF THE SUPREME COURT FOR 1980 AND 1981 CALENDAR YEAR

	1981	1980	Percent Difference
New Filings	**309**	**294**	**5.1**
Civil	244	215	13.5
Criminal	65	79	−17.7
Filings Carried over from Previous Calendar Year	**125**	**88**	**42.0**
Civil	95	70	35.7
Criminal	30	18	66.7
Total Cases Docketed	**434**	**382**	**13.6**
Civil	339	285	18.9
Criminal	95	97	−2.0
Dispositions	**280**	**257**	**8.9**
Civil	221	190	16.3
Criminal	59	67	−11.9
Cases Pending as of December 31	**154**	**125**	**23.2**
Civil	118	95	24.2
Criminal	36	30	20.0

Despite its rising caseload, the Supreme Court once again cleared its docket of all cases submitted to it for a decision. This is the eighth consecutive year for such an accomplishment.

To help it cope with the ever-increasing caseload, the Supreme Court adopted an emergency rule, effective July 1, 1981, reducing oral argument time to 30 minutes for the appellant and 20 minutes for the appellee. Prior to this rule change the parties were allowed 45 minutes and 30 minutes respectively. This reduction in argument time has allowed the court to increase the number of scheduled hearings per day from three to four.

All cases appealed to the Supreme Court are monitored for compliance with the time frames established by the Rules of Appellate Procedure. In comparing cases throughout the appeal process it should be noted that the time period for which the Court is directly responsible, that is, the time it takes from the hearing of the case to the date a decision is rendered, was reduced dramatically for civil cases in 1981. As Table 3 shows, it took the Court only 46 days to issue a decision in a civil case after a hearing in 1981 as compared to 77 days in 1980.

There were 280 cases disposed of in 1981. Table 4 illustrates the various types of decisions rendered by the Court in 1981.

TABLE 4

TYPES OF SUPREME COURT DISPOSITIONS FOR CALENDAR YEAR 1981

	Civil	Criminal
Affirmed; Modified and Affirmed	105	26
Reversed; Reversed and Remanded; Reversed and Modified	50	8
Affirmed in Part and Reversed in Part	10	1
Remanded	2	0
Certified Questions of Law Answered	0	2
Dismissed	43	10
Discipline Imposed	1	0
Original Jurisdiction - Granted	3	0
Original Jurisdiction - Denied	7	12
	221	59

In addition to the caseload of the Supreme Court, there are matters that come before the Court which will be termed "workload". These include such items as demands for change of judge, various applications and motions (petitions for writs, requests for extensions of time, requests for continuances, motions for remand, motions for stay, requests for additional argument time, etc.). Depending on the nature of the request, these matters may be considered by the full court, by a three-judge panel, by the administrative justice under the provisions of Administrative Rule 11 or by the Clerk of the Supreme Court under Administrative Rule 5.

The total number of such requests considered during 1981 was 649 or approximately 2.5 applications per working day. It is difficult to calculate the amount of time actually spent in handling this "workload" of the Court, but it is significant.

TABLE 3

COMPARISON OF THE TIME PRESCRIBED IN THE RULES FOR PERFECTING AN APPEAL AND THE ACTUAL TIME USED (IN DAYS)

	Prescribed by Rules		Average Actual Time 1979		Average Actual Time 1980		Average Actual Time 1981	
	Civil	Criminal	Civil	Criminal	Civil	Criminal	Civil	Criminal
From filing Entry of Judgment to filing Notice of Appeal	60	10	49	10	49	13	40	12
From filing Notice of Appeal to filing of Complete Record	50	50	48	40	36	53	39	45
From filing of Complete Record to filing Appellant's Briefs	40	40	45	35	41	61	48	46
From filing Appellant's Briefs to filing Appellee's Briefs	30	30	32	28	32	36	34	31
From At Issue (case ready for calendaring) to Hearing	N/A	N/A	42	30	41	35	52	47
From Hearing to Decision	N/A	N/A	77	58	77	32	46	36

District Courts

There is a district court in each of the state's fifty-three counties. They have original and general jurisdiction in all cases except as otherwise provided by law. They have the authority to issue original and remedial writs. They have exclusive jurisdiction in criminal felony cases and have concurrent original jurisdiction with the county courts of increased jurisdiction in all criminal misdemeanor cases.

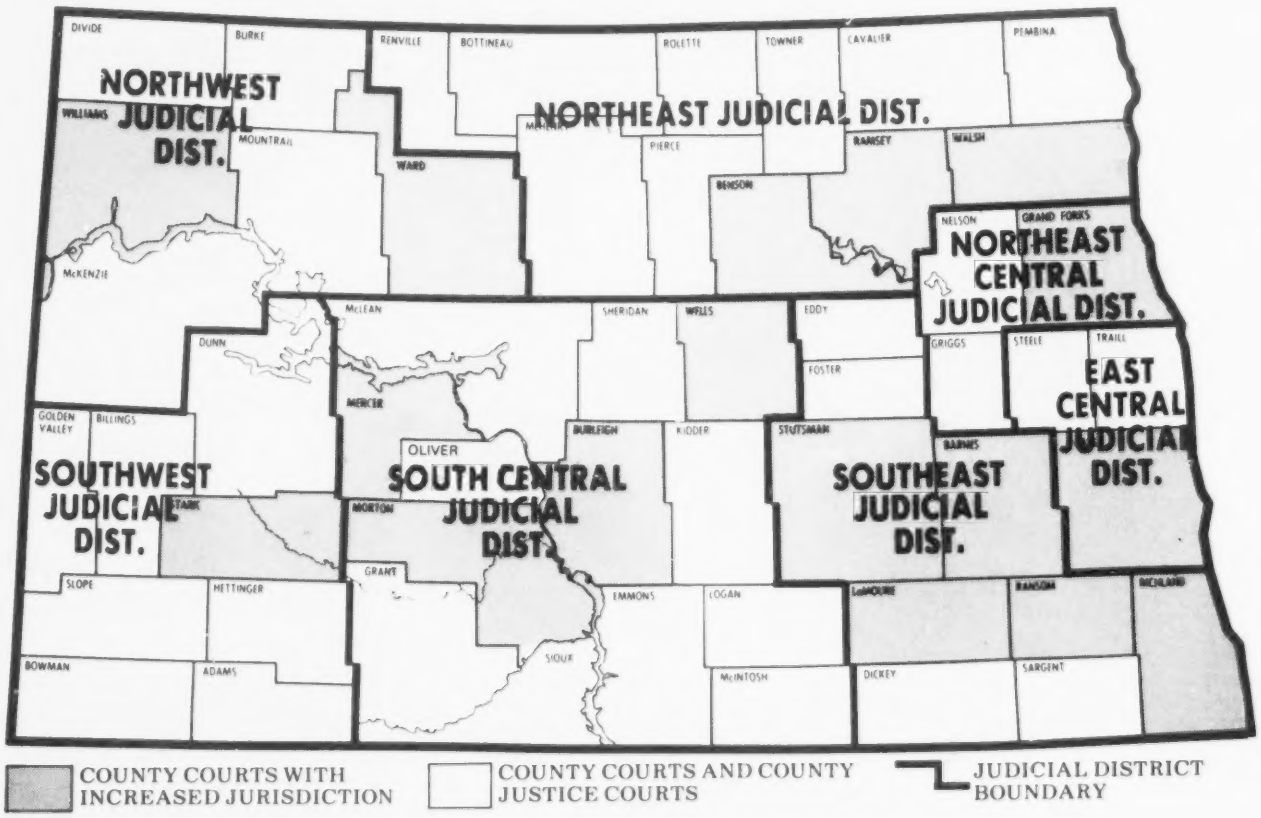
The district courts also serve as the juvenile courts in the state. Under Chapter 27-20, NDCC, which enacted the Uniform Juvenile Court Act, the juvenile court has exclusive and original jurisdiction over any minor who is alleged to be unruly, delinquent, or deprived. This jurisdiction was expanded in 1981 when the Legislature adopted legislation granting the juvenile court jurisdiction over all cases where a female minor is seeking judicial authorization to obtain an abortion without parental consent. District court judges serve as the designated judges of juvenile court. They may appoint juvenile supervisors, referees, probation officers, and other support personnel to assist them in their juvenile court functions.

In addition, the district courts are also the appellate courts of first instance for appeals from county justice courts, county probate courts, and those municipal courts where there is no county court with increased jurisdiction in the county. Appeals from the decisions of many administrative agencies also are heard in the first instance by the district courts. While administrative appeals involve a review of the record of the administrative proceeding by the district court, appeals from the limited jurisdiction courts involve a complete "retrial" of the case by the district court.

In 1979 the supreme court divided the state into seven judicial districts. In each judicial district there is a presiding judge who acts as the chief judicial administrator for the district. All presiding judges are appointed by the chief justice with the approval of the supreme court. The duties of the presiding judge, as established by the supreme court, include convening regular meetings of the judges within the judicial district to discuss issues of common concern, assigning cases among the judges of the district, and assigning judges within the judicial district in cases of demand for change of judge.

With the addition of two new judgeships in 1981, there are now twenty-six district judges in the state. The South Central Judicial District and the Northwest Judicial District each have five judges, the East Central Judicial District has four judges, and each of the remaining four judicial districts has three district judges. All district court judges are required by law to be licensed North Dakota attorneys, at least 25 years old, and citizens of the United States and North Dakota.

FIGURE 2
NORTH DAKOTA'S JUDICIAL DISTRICTS



District Court Caseload

The district court caseload has three major components: 1) civil, 2) criminal, and 3) juvenile. Of these components, the civil component is by far the largest. Nearly 83 percent of all cases filed in the district courts in 1981 were civil cases. Criminal cases comprised 9 percent of the total 1981 filings while juvenile cases constituted approximately 8 percent of all filings in 1981. A breakdown of the various types of cases filed in the district courts during 1981 is provided in Figure 3.

Within the civil component, domestic relations cases were the largest category. Domestic relations cases constituted nearly 47 percent of all civil filings. Of the domestic relations cases, divorce cases and child support cases were the most numerous. Approximately 48 percent of the domestic relations cases were divorce cases and 39 percent of them were child suppport cases. Adoption cases constituted 8 percent of the remaining domestic relations filings, which also included custody (1%), adult abuse (1%), and paternity (3%) cases.

Contract and collection actions also constituted a large portion of the district court's civil caseload. Nearly 36 percent of all civil filings were contract and collection actions. Most of the remaining case filings were property-related cases (7.6%) or tort cases (2.1%).

Of the criminal cases, approximately 93 percent were felony cases and 7 percent were misdemeanor cases.

Although the caseload continues to grow, it is growing at a much slower pace than it has in previous years. From 1976 to 1980 case filings grew at an average rate of 10 percent per year or about twice the rate of the 1981 increase. There are significant differences among the various districts. The largest caseload increases occurred in the Northwest Judicial District and the Southwest Judicial District and seem to be due to the demographic and economic changes accompanying the energy development in those areas. Both of the judicial districts which recorded decreases in case filings in 1981 were in the eastern part of the state where population and economic growth have been more stable. It seems likely that case filings will level off even more when energy development in the western part of the state stabilizes.

Part of the increase in judicial productivity can be attributed to the two new judges added in mid-year. Some of the increase probably also reflects the impact of the docket currency standards. This was the first year in which the docket currency standards were in effect for the whole year.

Because the number of dispositions in 1981 slightly exceeded the number of case filings, the number of cases pending at the end of the year also declined slightly. At the judicial district level, four of the seven judicial districts registered decreases in the number of cases pending at the end of the year. Two of these four districts received an additional judge in 1981.

FIGURE 3

TYPES OF CASES FILED IN THE DISTRICT COURTS DURING THE 1981 CALENDAR YEAR

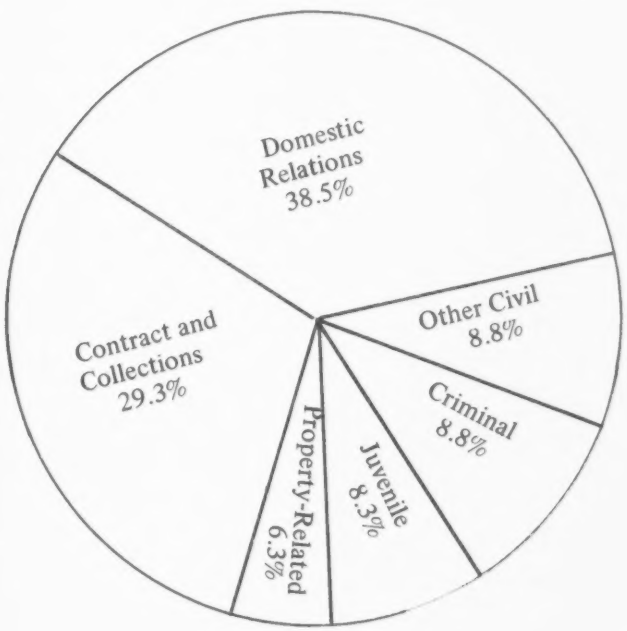


TABLE 5

A COMPARISON OF THE DISTRICT COURTS' CASELOADS FOR CALENDAR YEARS 1980 AND 1981

	1981	1980	Percent Difference
New Filings	**15,044**	**14,367**	**4.7**
Civil	12,465	11,886	4.9
Criminal	1,330	1,342	— .9
Juvenile	1,249*	1,139	9.7
Cases Carried Over From Previous Year	**5,758**	**5,316**	**8.3**
Civil	5,462	5,034	8.5
Criminal	296	282	5.0
Juvenile	--	--	--
Total Cases Docketed	**20,802**	**19,683**	**5.7**
Civil	17,927	16,920	6.0
Criminal	1,626	1,624	.1
Juvenile	1,249	1,139	9.7
Dispositions	**15,050**	**13,925**	**9.8**
Civil	12,473	11,458	8.9
Criminal	1,328	1,328	0.0
Juvenile	1,249	1,139	9.7
Cases Pending as of December 31	**5,752**	**5,758**	**— .1**
Civil	5,454	5,462	— .1
Criminal	298	296	.7
Juvenile	--	--	--

**For analysis purposes, juvenile dispositions have been equated with juvenile filings. Since juvenile cases are disposed of very rapidly, any discrepancy between filings and dispositions is very small.*

Civil Caseload

Both civil filings and dispositions continued to increase in 1981, but the rate of increase was lower than in 1980. Civil filings increased by 5 percent in 1981 compared to 8 percent in 1980 while civil dispositions increased by 9 percent in 1981 compared to 15 percent in 1980. The greatest increase in both civil filings and dispositions occurred in the Southwest Judicial District where civil filings increased by 39 percent and civil dispositions by 84 percent. As noted earlier, the sudden caseload growth in the Southwest Judicial District reflects the popultion and economic growth accompanying the exploration of oil and gas resources in that area.

Very few civil dispositions reached the trial stage. Trial dispositions accounted for only 12 percent of all civil dispositions. Of the cases that were tried, 10 percent were by court trials and 2 percent by jury trials. Over 87 percent of the civil dispositions were uncontested cases.

For the first time since 1975, the number of civil dispositions exceeded the number of civil filings. As a result, the number of pending cases at the end of the year actually decreased, reversing the escalation of pending cases experienced since 1976.

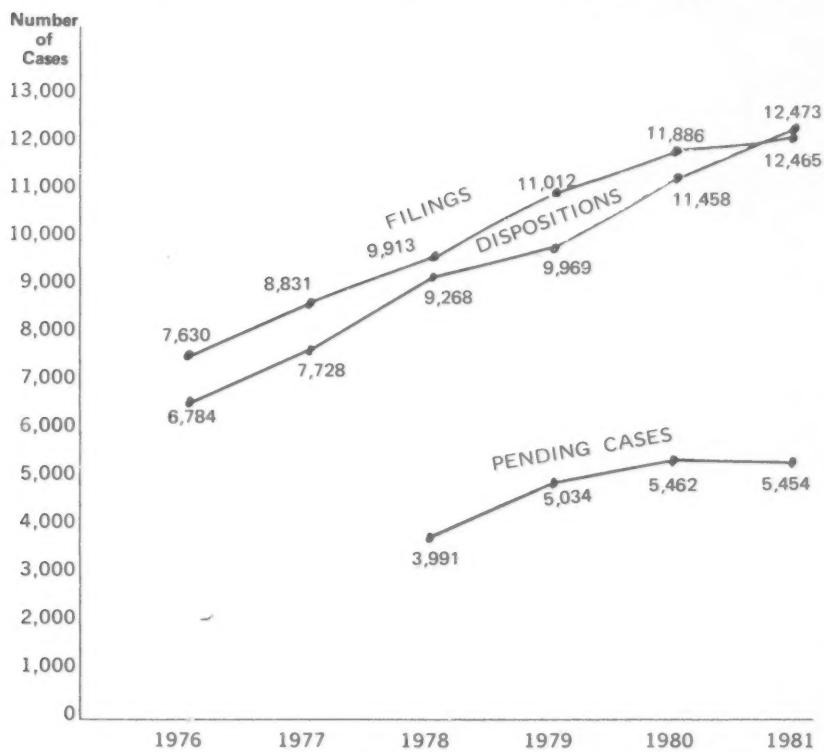
The age of pending cases is also an important caseload indicator. Its importance for the district court cases was increased in 1980 when the supreme court established docket currency standards for all district courts in the state. The standards require disposition of civil cases within 24 months of filing and within 90 days of the termination of a trial. Support proceedings, trust cases, and probate cases are exempt from these standards because the time required to process them is unusually long and often unpredictable. In cases where good cause has been demonstrated by the trial judge, application of the standards can be waived by the presiding judge or chief justice.

Of the 5,454 civil cases pending at the end of the 1981 calendar year, 76 percent of them were less than 2 years old and only 4 percent were older than 2 years. This compares to 71 percent less than 2 years old and 24 percent older than 2 years in 1980. These statistics do not include trust cases or support proceedings which composed 20 percent of all civil pending cases in 1981 and 24 percent in 1980.

Figure 4 gives a graphical representation of the relationship among civil filings, dispositions, and pending cases since 1976.

FIGURE 4

CIVIL CASELOAD COMPARISON FOR DISTRICT COURT



Criminal Caseload

The criminal case statistics reported here are reported on an individual case basis rather than on an individual defendant basis. Thus, if multiple defendants are charged with a crime, the matter is counted as one case unless a decision is made by the trial court to sever the case and try the defendants separately.

Prosecution of most criminal defendants begins with the filing of a criminal information by the state's attorney. Although indictment by grand jury is permitted, it is rarely used. The preliminary hearings are conducted by county justices or county court of increased jurisdiction judges. If the defendant is not released after the preliminary hearing, he is then bound over to the district court for trial.

After increasing dramatically in 1980, criminal filings and dispositions in 1981 have essentially remained at the 1980 levels. Large increases in criminal case filings occurred in the Northwest Judicial District and the East Central Judicial District. In contrast, large decreases were recorded in the Northeast Central Judicial District and the South Central Judicial District.

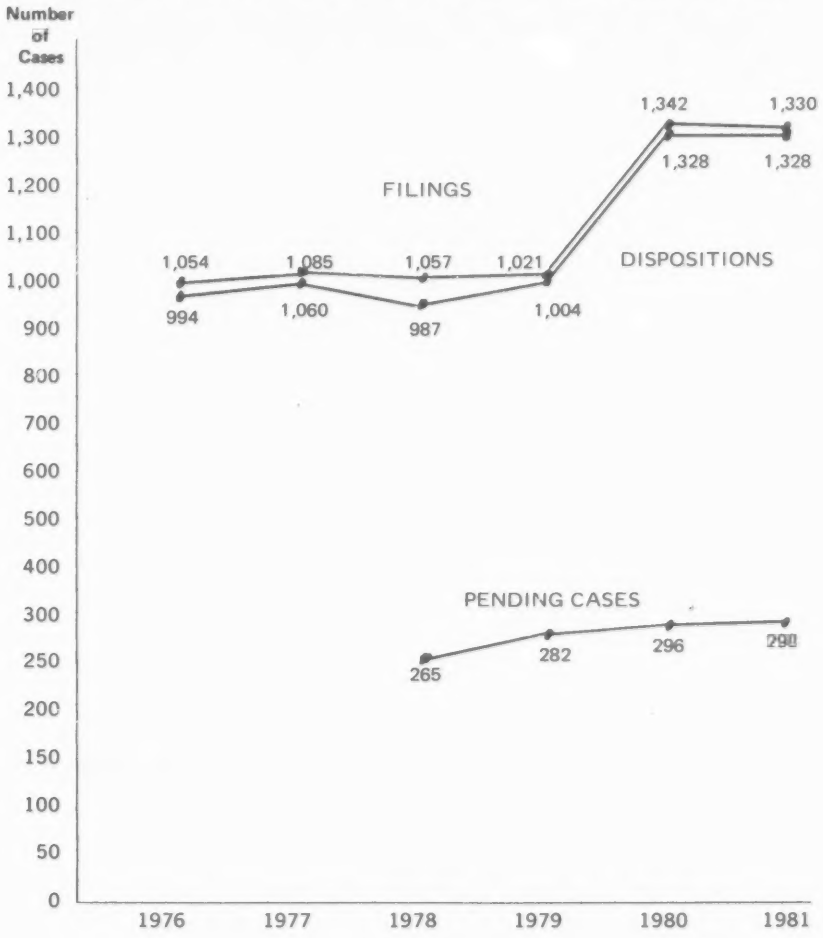
Most criminal cases were disposed of without a trial. Jury trials were held in 45 cases and court trials in 200 cases in 1981. This is a modest decrease from the 58 jury trials and 250 court trials in 1980. Thus, less than 19 percent of the criminal cases in 1981 were disposed of without a trial compared to about 23 percent in 1980.

Because criminal dispositions nearly matched criminal filings in 1981, the number of criminal cases pending at the end of the year remained about the same as the number of criminal cases pending at the end of the 1980 calendar year. However, the proportion of cases over the 120-day dispositional standard set by the docket currency standards has decreased. Whereas 34 percent of the pending criminal cases had been pending for longer than 120 days in 1980, this percentage declined to 28 percent in 1981.

Figure 5 portrays the stabilizing trend occurring with criminal filings, dispositions and pending cases.

FIGURE 5

CRIMINAL CASELOAD COMPARISON FOR DISTRICT COURT



Juvenile Caseload

The vast majority of juvenile cases are handled informally. However, before any juvenile case can be adjudicated informally, the juvenile must admit to the charge. If there is no voluntary admission to the offense, then the case is handled formally. With formal action, a petition is filed in the district court and a formal hearing is held within thirty days of the filing of the petition unless the district judge grants a request for an extension. Formal proceedings have priority over informal proceedings.

Of the informal proceedings conducted in 1981, approximately 38 percent were disposed of by counseling the juvenile and adjusting the matter with no terms of probation. Thus, some type of supervision was provided by the juvenile courts in 62 percent of the informal proceedings.

Although total juvenile dispositions increased slightly in 1981, they were still below the 1979 level. Of the four judicial districts which recorded increases in 1981, only the Northeast Judicial District experienced an increase over the total number of juvenile cases processed in 1979. As Table 6 illustrates, there have been only modest changes in the number of dispositions for all three juvenile caseload components.

Table 7 compares the reasons for referral to juvenile court in 1980 and 1981. Most types of referrals increased in 1981, but there are some significant variations within each of the major categories of referral. Misdemeanor theft continues to be the largest criminal violation causing referral.

FIGURE 6

COMPARISON OF JUVENILE DISPOSITIONS

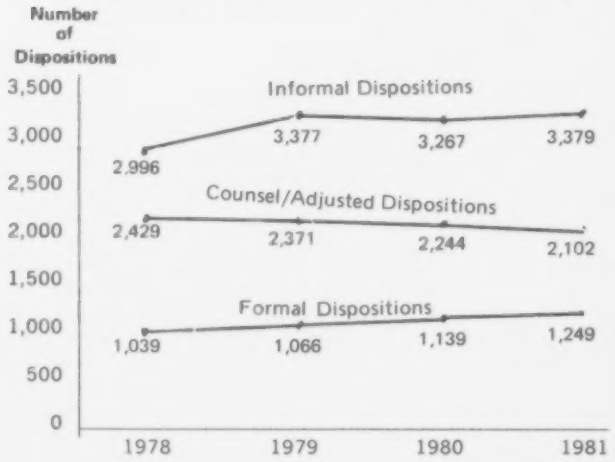


TABLE 6

TYPES OF JUVENILE COURT DISPOSITIONS FOR THE 1980 AND 1981 CALENDAR YEARS

Judicial District	Formal		Informal		Counsel/ Adjusted		Total Dispositions		Percent Difference For Total Dispositions
	1981	1980	1981	1980	1981	1980	1981	1980	
Northwest	135	142	861	693	265	266	1,261	1,101	14.5
Northeast	168	140	474	453	533	496	1,175	1,089	7.9
Northeast Central	136	139	389	326	259	304	784	769	2.0
East Central	412	346	491	614	70	92	973	1,052	−7.5
Southeast	137	136	585	557	304	309	1,026	1,002	2.4
South Central	202	188	468	472	546	657	1,216	1,317	−7.7
Southwest	59	48	111	152	125	120	295	320	−7.8
TOTAL	1,249	1,139	3,379	3,267	2,102	2,244	6,730	6,650	1.2

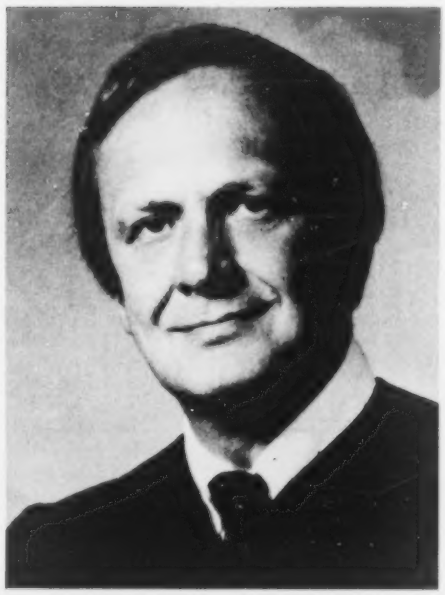
TABLE 7
JUVENILE COURT REASON FOR REFERRAL FOR THE 1980 AND 1981 CALENDAR YEARS

	1981	1980	Percent Difference
UNRULY	**867**	**812**	**6.8**
Runaway-In State	245	216	13.4
Runaway-Out of State	75	42	78.6
Truancy	148	177	−16.4
Ungovernable Behavior	183	169	8.3
Conduct/Control Violation	31	23	34.8
Curfew Violation	120	138	−13.0
Other	65	47	38.3
DELINQUENCY	**4,940**	**4,928**	**.2**
Offense Against Person	**128**	**134**	**− 4.5**
Assault	69	76	− 9.2
Homicide	0	3	−100.0
Kidnapping	3	3	0.0
Sex Offense	31	23	34.8
Other	25	29	−13.8
Offense Against Property	**2,372**	**2,216**	**7.0**
Arson	19	19	0.0
Burglary	252	256	− 1.6
Criminal Mischief	352	381	− 7.6
Criminal Trespass	66	74	−10.8
Forgery	43	44	− 2.3
Robbery	3	5	−40.0
Theft-Misdemeanor	1,110	1,036	− 2.5
Theft-Felony	277	181	53.0
Unauthorized Use of Vehicle	102	124	−17.7
Other	148	96	54.2
Traffic Offenses	**478**	**510**	**6.3**
Driving w/o license	403	415	2.9
Negligent Homicide	0	1	−100.0
Other	75	94	−20.2
Other Offenses	**1,962**	**2,068**	**− 5.1**
Disorderly Conduct	165	188	−12.2
Firearms	21	40	−47.5
Game & Fish Violation	48	70	−31.4
Obstruction of Law Enforce/Escape	23	32	−28.1
Controlled Substance Violation	169	190	−11.1
Possession or Purchase of Alcohol Beverage*	1,474	1,459	1.0
Other	62	89	−30.3
DEPRIVATION	**530**	**446**	**18.8**
Abandoned	7	6	16.7
Abuse/Neglect	247	130	90.0
Deprived	259	279	7.2
Other	17	31	45.2
SPECIAL PROCEEDINGS	**139**	**91**	**52.7**
Termination Parental Rights Involuntary	9	19	−52.6
Termination Parental Rights Voluntary	97	50	94.0
Other	33	22	50.0
TOTAL	6,476	6,277	3.2

**In 1981 the Legislature changed possession or purchase of alcoholic beverages from the unruly category to the delinquent category.*

Report of the Northwest Judicial District

The Honorable Wallace D. Berning, Presiding Judge



New Staff

The year 1981 was highlighted by the appointment of the Honorable Bert L. Wilson to a newly created District Judge position with chambers at Williston, North Dakota. An investiture ceremony was held in Williston on October 16, 1981. He assumed duties on October 1, 1981. Judge Wilson has appointed Lori Winfaldet as his official court reporter.

We regret the resignation of Mr. Gary Crum, the former court reporter for Judges Beede and Olson. Ms. Renee Romine was appointed by Judge Olson as Mr. Crum's replacement.

Assignment of Cases

The past policy of the judges in Williston servicing the counties of Williams, McKenzie and Divide will continue. The judges in Minot will service the counties of Ward, Burke and Mountrail. Plans have been made to effect a rotation of judges within the district, but as a result of the need for fiscal economies that plan has been deferred. A continuous jury term has been implemented throughout the district in which jury cases are called and assigned for trial in the same manner as court cases.

Juvenile Court Administration

In Minot the Juvenile Court has adopted a program working with college students from the Criminal Justice Program of Minot State College in which they serve as volunteer staff. They have helped to fill the gap in areas of probation service and research. Unhappily Ward County leads the state in child abuse cases reported and investigated. This is no doubt a result of both mandatory reporting legislation and increased awareness of the respective communities.

It was reported to the Presiding Judge that the juvenile case records in Ward County date back to 1896. This may seem like a great historical achievement, but it is not in the best interests of good administration. Accordingly, plans have been made to immediately implement a shredding process of those juvenile records in which the statutory retention period has elapsed.

The Williston juvenile staff, with the assistance of the Northwest Human Resource Center and the Williston Public Schools, has activated programs to familiarize youth and parents with alcohol and drug abuse problems.

Miscellaneous

There is no doubt that jail facilities in both Williams and Ward Counties will fail to meet the criteria set forth by the Attorney General for a Class I jail facility. Inadequate jail facilities remain a continual concern, not only to the judiciary but also to the governing bodies of the counties in the district.

During the year, the Presiding Judge held several meetings with the judges of the district. One of the outcomes of these meetings was a decision to solicit a contract for the defense of indigents and certain juvenile matters in Ward County. It is hoped that this matter will be fully effected by July 1, 1982.

TABLE 8

A COMPARISON OF THE NORTHWEST JUDICIAL DISTRICT CASELOADS FOR CALENDAR YEARS 1980 AND 1981

	1981	1980	Percent Difference
New Filings	**2,699**	**2,497**	**8.1**
Civil	2,294	2,137	7.3
Criminal	270	218	23.9
Juvenile	135	142	— 4.9
Cases Carried Over From Previous Year	**872**	**785**	**11.1**
Civil	850	756	12.4
Criminal	22	29	—24.1
Juvenile	--	--	--
Total Cases Docketed	**3,571**	**3,282**	**8.8**
Civil	3,144	2,893	8.7
Criminal	292	247	18.2
Juvenile	135	142	-- 4.9
Dispositions	**2,796**	**2,410**	**16.0**
Civil	2,407	2,043	17.8
Criminal	254	225	12.9
Juvenile	135	142	— 4.9
Cases Pending As of December 31	**775**	**872**	**—11.1**
Civil	737	850	—13.3
Criminal	38	22	72.7
Juvenile	--	--	--

Report of the Northeast Judicial District

The Honorable Douglas B. Heen, Presiding Judge
Dagny Olson, Administrative Assistant

Caseflow Management

A serious effort is being made in this District to reduce the cost of delivery of judicial services without reduction of the quality of justice delivered. Realistically, projected economies can be realized by systemized policy programing with particular emphasis on jury and case management.

The law intern program, an invaluable judicial resource in view of ever increasing demands on judicial time, is looked to as an aid for efficient and considered case adjudications. Whether for the summer months, or longer, the intern program would be invaluable for prompt and just disposition of legal actions. Hopefully, our district can become involved in this program.

Facility Needs

Library space is at a premium. It is absolutely necessary that immediate consideration be given to increasing the District's library facilities, use of which will be made by both the District Judges and the County Judges.

TABLE 9
A COMPARISON OF THE NORTHEAST JUDICIAL DISTRICT CASELOADS FOR CALENDAR YEARS 1980 AND 1981

	1981	1980	Percent Difference
New Filings	**1,589**	**1,475**	**7.7**
Civil	1,260	1,175	7.2
Criminal	161	160	.6
Juvenile	168	140	20.0
Cases Carried Over from Previous Year	**532**	**541**	**– 1.7**
Civil	476	475	.2
Criminal	56	66	–15.2
Juvenile	--	--	--
Total Cases Docketed	**2,121**	**2,016**	**5.2**
Civil	1,736	1,650	5.2
Criminal	217	226	– 4.0
Juvenile	168	140	20.0
Dispositions	**1,596**	**1,484**	**7.6**
Civil	1,248	1,174	6.3
Criminal	180	170	5.9
Juvenile	168	140	20.0
Cases Pending As of December 31	**525**	**532**	**– 1.3**
Civil	488	476	2.5
Criminal	37	56	– 3.4
Juvenile	--	--	--

Report of the Northeast Central Judicial District

The Honorable A. C. Bakken, Presiding Judge
Pat Thompson, Court Administrator

Caseflow Management

During the past year the Northeast Central Judicial District progressed to scheduling cases shortly after they reached the ready-for-trial status, thus achieving docket currency of civil and criminal cases in accordance with Administrative Rule 12-1980. This accomplishment is attributed to a combination of the following:

1) Cooperation of the judges in implementing new scheduling techniques;
2) Scheduling under the master plan;
3) Monitoring cases from filing to disposition;
4) Providing a date certain for trial; and
5) A policy of limited continuances.

In addition, utilization of Rule 40(e) of the Rules of Civil Procedure has resulted in the dismissals of an increased number of pending delinquent civil cases which have been pending for more than a year.

Cindy Larson, Calendar Control Clerk, was hired in October, 1981 to assist in coordinating the scheduling and monitoring of cases for Griggs, Nelson and Grand Forks Counties.

Jury Management

An automatic telephone answering device (Code-A-Phone) was installed in the Clerk's office to inform jurors when to report for jury duty or to change previous instructions. This allows jurors to stay home or go back to work when not required for panels and saves them unnecessary trips to the courthouse. Another advantage of this call-in procedure is that it places the responsibility upon the jurors and eliminates the time required for court personnel to reach all jurors by phone. This has resulted in considerable savings in jury expenses.

Law Intern Program

Continued cooperation with the University of North Dakota School of Law has enabled each district judge to have the assistance of a student law clerk. The law school gives students three credit hours for performing 10 hours of law clerk duties each week during a semester and during the summer.

Juvenile Court

In addition to its regular responsibilities, several community service programs have been sponsored by the Juvenile Court in conjunction with the Continuing Legal Education Program of the Grand Forks Public School District. Participants received credits.

STRAIT (Systems Training for Reaching Abusers in Trouble) was a workshop presented in November which dealt with adolescent drug abuse issues.

TOUGHLOVE, a parent support group for those who are troubled by their teenagers' behavior, is a church sponsored program with materials furnished by Juvenile Court.

PROJECT NEW START became finalized last fall. This involved a search for approximately five foster homes to be available to the court. Thus far two homes have been licensed.

Advisory Committee

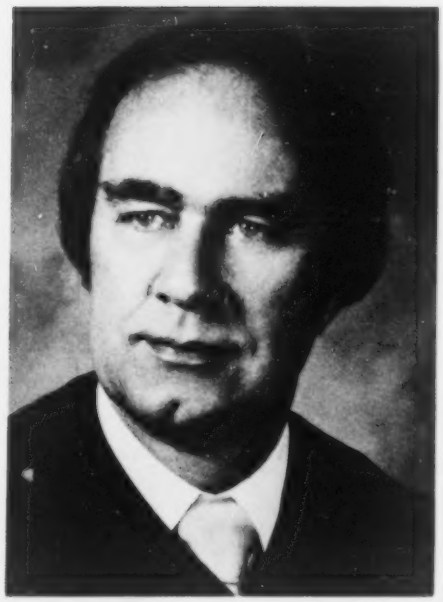
The Presiding Judge met with the Advisory Committee for the Northeast Central Judicial District pertaining to the recommendations submitted to the Judicial Planning Committee. Damon Anderson was reappointed to serve on the Committee for a three-year term.

TABLE 10
A COMPARISON OF THE NORTHEAST CENTRAL JUDICIAL DISTRICT FOR CALENDAR YEARS 1980 AND 1981

	1981	1980	Percent Difference
New Filings	**1,685**	**1,838**	**– 8.3**
Civil	1,447	1,551	– 6.7
Criminal	102	148	–31.1
Juvenile	136	139	– 2.2
Cases Carried Over From Previous Year	**684**	**740**	**– 7.6**
Civil	641	700	– 8.4
Criminal	43	40	7.5
Juvenile	--	--	--
Total Cases Docketed	**2,369**	**2,578**	**– 8.1**
Civil	2,088	2,251	– 7.2
Criminal	145	188	–22.9
Juvenile	136	139	– 2.2
Dispositions	**1,782**	**1,894**	**– 5.9**
Civil	1,522	1,610	– 5.5
Criminal	124	145	–14.5
Juvenile	136	139	– 2.2
Cases Pending As of December 31	**587**	**684**	**–14.2**
Civil	566	641	–11.7
Criminal	21	43	–51.2
Juvenile	--	--	--

Report of the East Central Judicial District

The Honorable Norman J. Backes, Presiding Judge
Mark Hinnen, Court Administrator



Facilities

In November, 1981, the north side addition to the courthouse was completed. District court personnel moved into the facilities in December, 1981. The expansion has effectively doubled the district court's working area. The addition provides for four judges' offices, four court reporters' offices, a jury conference room, two attorney conference rooms, and a twelve hundred square foot courtroom. It also provides for a long-needed centralized location for the library. The completion concludes the first phase of the courthouse project. When funds become available, energy-saving windows are to be installed in the old courthouse and restoration of the old section will take place.

Caseflow Management

In January, 1981, the District began an experiment utilizing word processing equipment to replace the manual case tracking equipment and to supplement the State information system. Although there have been some problems in implementing the system, the project has had some positive results. The system was designed to produce reports not offered by the State information system and to strengthen the concept that local courts can and should have in-house capability to track cases and provide information in a timely fashion. Currently, this system produces a monthly note of issue report, a monthly case disposition report, and a tickler report that can be run daily or weekly. The system can also provide an exception report which indicates those cases in which a note of issue has not been filed within one year.

Local Rules

Two local rules were adopted by the Judges of the District in 1981. The rules refer to local procedures regarding scheduling of motions and handling of *ex parte* orders. One rule required attorneys to notice all motions for hearing rather than just submitting the motion on briefs. The other rule allows a hearing upon the signing of an *ex parte* order as an alternate procedure to Rule 8.2. Both rules were strongly supported by the East Central Judicial District Advisory Board on the basis that they signified a preferred practice among attorneys and judges in the District.

Personnel

To promote the concept of centralized personnel and to effect better utilization of personnel, one work station was transferred from juvenile court to the district court administrator's office. Although the move was made primarily to provide more direct support personnel to the judges and administrator, it was also a first step in fostering the concept of personnel work for district court as a whole rather than for a specific division. The court will continually be studying methods of operation to promote efficiency and consolidate services among offices wherever possible.

TABLE 11

A COMPARISON OF THE EAST CENTRAL JUDICIAL DISTRICT CASELOADS FOR CALENDAR YEARS 1980 AND 1981

	1981	1980	Percent Difference
New Filings	**3,100**	**2,938**	**5.5**
Civil	2,473	2,415	2.4
Criminal	215	177	21.5
Juvenile	412	346	19.1
Cases Carried Over From Previous Year	**1,324**	**1,103**	**20.0**
Civil	1,288	1,064	21.0
Criminal	36	39	— 7.7
Juvenile	--	--	--
Total Cases Docketed	**4,424**	**4,041**	**9.5**
Civil	3,761	3,479	8.1
Criminal	251	216	16.2
Juvenile	412	346	19.1
Dispositions	**2,944**	**2,717**	**8.4**
Civil	2,363	2,191	7.9
Criminal	169	180	— 6.1
Juvenile	412	346	19.1
Cases Pending As of December 31	**1,480**	**1,324**	**11.8**
Civil	1,398	1,288	8.5
Criminal	82	36	127.8
Juvenile	--	--	--

Report of the Southeast Judicial District

The Honorable Robert L. Eckert, Presiding Judge

Advisory Committee on Local Court Rules

The Advisory Committee on Local Court Rules has met and is now studying various recommendations to improve the administration of justice within the district. Among areas of consideration are: (1) procedures to resolve fee disputes where attorneys are appointed to represent indigent defendants, (2) bail provisions for persons charged with driving while under the influence, (3) standardized procedures for interim orders in divorce cases, (4) rotation of judges in all court and jury cases, and (5) additional judicial services for Stutsman County which had a disproportionate share of case filings relative to the remainder of the district. It is expected that these proposals will be acted upon during 1982.

New Courthouse in Stutsman County

Stutsman County began construction of a new courthouse in 1981 with expanded facilities for the judges of the county and district courts. Construction should be completed some time in 1982.

Annual Meeting of the Southeast Judicial District Bar Association

The second meeting of the Southeast Judicial District Bar Association was held at Valley City, North Dakota. Presiding at the meeting was President Ted Kessel of LaMoure, North Dakota. Stutsman County attorneys extended an invitation to the Association to meet in Jamestown in 1982. This invitation was unanimously accepted by the Association.

Assignment of Cases

Cases from Richland, Ransom and Sargent counties which are tried to the court without a jury continue to be assigned to Judge Eckert. Cases arising in Eddy, Foster and Stutsman counties which are to be tried to the court without a jury continue to be assigned to Judge Fredricks. Cases from Barnes, LaMoure and Dickey counties which are to be tried to the court without a jury continue to be assigned to Judge Paulson.

Clerks of court have been ordered to immediately notify the district court of the filing of any bindover papers so that criminal arraignments and criminal trials can be held as soon as possible. The district judges continue to alternate civil jury terms in each county within the district.

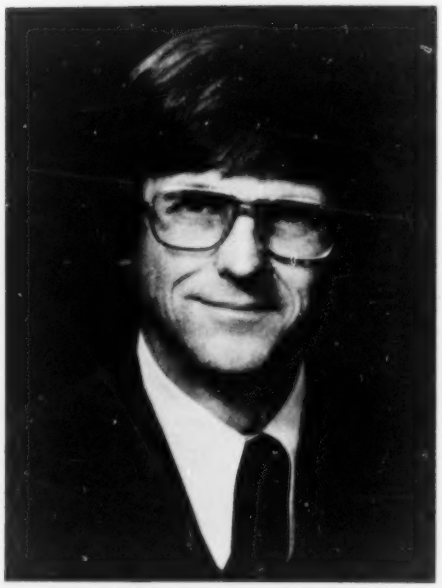
TABLE 12

A COMPARISON OF THE SOUTHEAST JUDICIAL DISTRICT CASELOADS FOR CALENDAR YEARS 1980 AND 1981

	1981	1980	Percent Difference
New Filings	**1,728**	**1,771**	**– 2.4**
Civil	1,432	1,473	– 2.8
Criminal	159	162	– 1.9
Juvenile	137	136	.7
Cases Carried Over From Previous Year	**645**	**511**	**26.2**
Civil	598	469	27.5
Criminal	47	42	11.9
Juvenile	--	--	--
Total Cases Docketed	**2,373**	**2,282**	**4.0**
Civil	2,030	1,942	4.5
Criminal	206	204	1.0
Juvenile	137	136	.7
Dispositions	**1,686**	**1,637**	**3.0**
Civil	1,397	1,344	3.9
Criminal	152	157	– 3.2
Juvenile	137	136	.7
Cases Pending As of December 31	**687**	**645**	**6.5**
Civil	633	598	5.9
Criminal	54	47	14.9
Juvenile	--	--	--

Report of the South Central Judicial District

The Honorable Benny A. Graff, Presiding Judge
Dee J. Hanson, Court Administrator



Transition to State Funding

State funding for a major portion of district court expenses, effective July 1, 1981, necessitated a series of new bill-paying procedures to ensure accountability and increased coordination with the State Court Administrator's Office. Overall, the transition to State funding has been accepted by court personnel as a change for the better.

As a result of State funding, our relationships with the counties within our district have changed to the extent that the district court is becoming detached from the local county "family." The court is being viewed less as a member of the informal courthouse organization and more as a tenant within the former courthouse structure.

Statewide Rules of Court

The adoption of statewide Rules of Court by the Supreme Court, which incorporated many of the district courts' Local Rules, has eliminated much confusion among attorneys who have a widespread, statewide practice. Rule 3.2, Submission on Briefs and Filing, has particularly impacted this district. Judges have been able to take advantage of this rule by eliminating a sizeable amount of courtroom hearing time by deciding motions on briefs. The court administrator for the district has established a workable procedure for monitoring Rule 3.2 motions which allows optimum utilization of the rule.

Records Management

Marian Barbie, Clerk of District Court for Burleigh County, Dennis Schulz, Clerk of District Court for Logan County, and D. J. Hanson, Court Administrator of this district, were members of the Records Management Committee established by the State Court Administrator's Office to study and recommend a policy for the management of district court records. The committee was successful in developing a Records Retention Schedule, which was forwarded to the Court Services Administration Committee. The Court Services Administration Committee reviewed the Schedule and forwarded it to the Supreme Court for adoption.

In addition, the Clerk's office of the District Court for Burleigh County developed a Register of Actions card system to replace the traditional bound books. This new card system provides a more efficient method of recordkeeping for Register of Actions entries.

Future Developments in 1982

The court administrator has been working on the development of a computerized calendaring system for the district. Although hardware has not been purchased, system design work has been completed and software packages are being considered. It is anticipated that hardware will be purchased and the system will be on line in 1982. The State Court Administrator is hopeful that the front-end analysis that has been done to design the system will be transferable to other districts.

It is anticipated that in 1982 the South Central Judicial District will have a unified juvenile division within the district, rather than three separate juvenile court operations. The juvenile division will operate under one juvenile supervisor/referee as a department head who will be responsible for the total operations of the juvenile court. Personnel can then be utilized district-wide and operational procedures can be standardized. The juvenile supervisor/referee will be responsible and accountable to all five district court judges to ensure that the juvenile division is run in accordance with their wishes.

TABLE 13

A COMPARISON OF THE SOUTH CENTRAL JUDICIAL DISTRICT CASELOADS FOR CALENDAR YEARS 1980 AND 1981

	1981	1980	Percent Difference
New Filings	**3,167**	**3,050**	**3.8**
Civil	2,651	2,483	6.8
Criminal	314	379	−17.1
Juvenile	202	188	7.5
Cases Carried Over From Previous Year	**1,233**	**1,291**	**− 4.5**
Civil	1,159	1,236	− 6.2
Criminal	74	55	34.5
Juvenile	--	--	--
Total Cases Docketed	**4,400**	**4,341**	**1.4**
Civil	3,810	3,719	2.5
Criminal	388	434	−10.6
Juvenile	202	188	7.5
Dispositions	**3,096**	**3,108**	**− 0.4**
Civil	2,552	2,560	− 0.3
Criminal	342	360	− 5.0
Juvenile	202	188	7.5
Cases Pending As of December 31	**1,304**	**1,233**	**5.8**
Civil	1,258	1,159	8.5
Criminal	46	74	−37.8
Juvenile	--	--	--

Report of the Southwest Judicial District

The Honorable Maurice R. Hunke, Presiding Judge
Ardean Ouellette, Court Administrator

"Workload in the district, especially in Stark County, has increased by leaps and bounds in the past two years. While the number of cases disposed of has also increased substantially, it has still lagged behind the increase in filings, Chief Justice Erickstad has recommended to the Legislature that it appropriate funds for an additional judge for this district. The Legislature will meet in 1981 and it is hoped that the district's request for an additional judge will be granted."

That epigraph was the concluding paragraph of retired Presiding District Judge Norbert J. Muggli's report to the Judicial Council for the year 1980. The accuracy of Judge Muggli's prophecy regarding an increased workload in the district was confirmed with an approximately 35% increase in new case filings during 1981.

We are pleased to report that the Forty-seventh Legislative Assembly responded well to Judge Muffli's plea for an additional judge for the district. Perhaps that response is a lesson teaching that our Legislators do provide redress for well documented needs when the relief requested is reasonably presented through our Chief Justice. It is well known that the increased economic activity and population in southwestern North Dakota resulting from energy exploration and development created a new burden for all public services, including court services, and we are grateful that the Legislature has provided us with one new district judge and court reporter, a court administrator and a secretary to serve the various court personnel located in Dickinson.

New Personnel

As noted, Presiding District Judge Norbert J. Muggli retired effective July 31, 1981. Governor Allen Olson appointed Dickinson attorney Maurice R. Hunke to fill the vacancy created by Judge Muffli's retirement and Dickinson attorney Allan Schmalenberger to fill the newly authorized judgeship. Both judges assumed office in late September. Judge Muffli's court reporter, Arnold F. Badinger, was retained by Judge Hunke, and Kimberly L. Schwartz was appointed court reporter for Judge Schmalenberger. Ardean Ouellette, the Clerk of District Court for Stark County, was appointed as the Court Administrator for the District and Lorraine Scanson was appointed as secretary to the judges.

Following the retirement of Matt Zabel as juvenile supervisor, the Court appointed Howard Egan, Jr. as his successor.

New Facilities

Our happiness is not limited to the fulfillment of our personnel needs. We are also deeply grateful to the Stark County Board of Commissioners for the remodeling project in the Stark County Courthouse to provide offices, space for a law library, and a new courtroom for district court operations at Dickinson. All of these projects will be completed and in use in early 1982. During the same year construction of a new courthouse for Billings County in Medora will also commence. The new courthouse will include an appropriate district court facility.

Goals for 1982

A number of goals for the administration of justice have been established for the district. The first of these goals is to ensure full compliance with docket currency standards by the conclusion of the year. In criminal cases we expect to exceed the current standards in that all new criminal cases in the district will be tried and concluded within 75 days of filing, absent unusual circumstances such as extended hospitalization of a party or principal participant. Progress toward our remaining goals will be addressed in the next annual report.

TABLE 14
A COMPARISON OF THE SOUTHWEST JUDICIAL DISTRICT CASELOADS FOR CALENDAR YEARS 1980 AND 1981

	1981	1980	Percent Difference
New Filings	**1,076**	**798**	**34.8**
Civil	908	652	39.3
Criminal	109	98	11.2
Juvenile	59	48	22.9
Cases Carried Over From Previous Year	**468**	**345**	**35.6**
Civil	450	334	34.7
Criminal	18	11	63.6
Juvenile	--	--	--
Total Cases Docketed	**1,544**	**1,143**	**35.1**
Civil	1,358	986	37.7
Criminal	127	109	14.7
Juvenile	59	48	22.9
Dispositions	**1,150**	**675**	**70.4**
Civil	984	536	83.6
Criminal	107	91	17.6
Juvenile	59	48	22.9
Cases Pending As of December 31	**394**	**468**	**−15.8**
Civil	374	450	−16.9
Criminal	20	18	11.1
Juvenile	--	--	--

The County Court System

North Dakota has three types of county courts. They are the county courts with increased jurisdiction, the county justice courts, and the county probate courts. Generally speaking, the most populous counties in the state have the county courts with increased jurisdiction and the lesser populated counties have both county justice courts and county probate courts. All three types of county courts are courts of limited jurisdiction.

In 1981 the Legislature passed legislation establishing a uniform system of county courts to replace the present multifaceted county court structure. This new county court system becomes effective on January 1, 1983. The jurisdiction of the new county courts will be the equivalent of the present county courts of increased jurisdiction. Two or more counties will be permitted to contract with one another for the services of a single county judge. In those counties where a county judge does not reside, a magistrate may be appointed to handle preliminary matters until the county judge holds court in the county. In contrast to the present system, all county judges will be licensed attorneys and serve as full-time judges under the new county court system.

Most of the cases filed in the county courts are noncriminal traffic cases. Such cases constitute nearly 72 percent of the county courts' caseload. Criminal cases, mainly misdemeanors, make up over 15 percent of the caseload and civil cases compose approximately 11 percent of the caseload. Within the civil cases category, small claims cases and probate cases dominate. Figure 7 provides a pictorial breakdown of the types of cases filed in all of the county courts in the state.

All three major categories of cases declined in 1981. The largest decline occurred with the noncriminal traffic cases. Although the recorded decrease in civil cases were only minimal, this decrease is understated by the statistics because several counties did not file their caseload reports for 1980 with the Court Administrator's Office.

County court dispositions also decreased in 1981. Only civil cases recorded an increase, but even here the recorded increase may be misleading because of unreported cases in 1980.

Pending cases continued to grow as filings once again exceeded dispositions. The high number of pending cases in county courts reflects the particular types of cases handled by county courts. Probate, guardianship, and conservatorship cases often require an unusually long time to process. Table 15 provides a caseload synopsis of the county courts for 1980 and 1981.

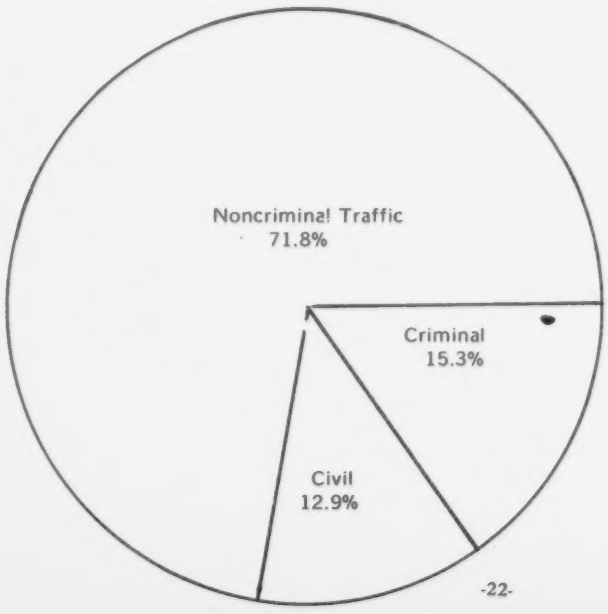
TABLE 15

CASELOAD SYNOPSIS OF ALL COUNTY COURTS FOR THE 1980 AND 1981 CALENDAR YEARS

	1981	1980	Percent Difference
New Filings	**103,282**	**121,220**	**−14.8**
Civil	13,300	13,387	− 0.6
Criminal	15,837	15,897	− 0.4
Noncriminal Traffic	74,145	91,936	−19.4
Cases Carried Over From Previous Calendar Year	**15,481**	**14,631**	**5.8**
Civil	12,005	10,432	15.1
Criminal	3,476	4,199	−17.2
Noncriminal Traffic	--	--	--
Total Cases Docketed	**118,763**	**135,851**	**−12.6**
Civil	25,305	23,819	6.2
Criminal	19,313	20,096	− 3.9
Noncriminal Traffic	74,145	91,936	−19.4
Dispositions	**101,450**	**120,370**	**−15.7**
Civil	11,980	11,814	1.4
Criminal	15,325	16,620	− 7.8
Noncriminal Traffic	74,145	91,936	−19.4
Cases Pending As of December 31	**17,313**	**15,481**	**11.8**
Civil	13,325	12,005	11.0
Criminal	3,988	3,476	14.7
Noncriminal Traffic	--	--	--

FIGURE 7

TYPES OF CASES FILED IN ALL COUNTY COURTS FOR THE 1981 CALENDAR YEAR



BREAKDOWN OF CIVIL FILINGS

Small Claims	6.2%
Probate	3.1%
Mental Health	1.1%
Guardianship/ Conservatorship	.4%
Other Civil	2.1%

County Courts of Increased Jurisdiction

County courts of increased jurisdiction are county courts where the offices of county judge and county justice have been merged. They are created by a special election in the county to decide whether the county courts and county justice courts should be combined to form a county court of increased jurisdiction. At present, seventeen of North Dakota's fifty-three counties have established county courts with increased jurisdiction. Unlike the other types of county courts, county courts with increased jurisdiction are courts of record.

The county court with increased jurisdiction has original jurisdiction concurrent with the district court in all civil cases where the amount in controversy does not exceed $1,000 and in all criminal misdemeanor cases. It has exclusive original jurisdiction in probate, testamentary, and guardianship matters. In 1977, county courts with increased jurisdiction were authorized to conduct mental health and commitment proceedings.

The judge of the county court with increased jurisdiction has the authority to issue warrants and complaints, to determine whether an individual accused of a felony should be held for trial, and to perform other standard judicial functions.

County courts of increased jurisdiction also have authority as small claims courts. The jurisdiction of the small claims court is limited to cases for recovery of not more than $1,000. There is no right of appeal from the decisions of the county court of increased jurisdiction when it is acting in its capacity as a small claims court.

In 1978 the supreme court authorized county courts of increased jurisdiction to hear all appeals from the municipal courts within their respective counties. Prior to this date, both district courts and county courts of increased jurisdiction had concurrent appellate jurisdiction for cases originating in municipal court.

Except for probate cases, appeals from the decisions of the county court of increased jurisdiction go directly to the supreme court. In probate cases, the appeals go to the district court.

The county court of increased jurisdiction judge must be a licensed North Dakota attorney, a resident of North Dakota and of the county in which he serves, and a citizen of the United States. All county court of increased jurisdiction judges are elected for four-year terms.

Noncriminal traffic cases comprised the bulk (69%) of the cases filed in the county courts with increased jurisdiction in 1981. However, these cases are disposed of very rapidly so that the amount of time spent by judges in processing them is not proportional to their numerical dominance.

Criminal cases made up over 17 percent of all filings in the county courts with increased jurisdiction in 1981. Nearly 10 percent of these criminal cases were preliminary hearings conducted in felony matters and 90 percent were misdemeanor cases. The number of preliminary hearings for felonies decreased by 6.6 percent from 1980 to 1981.

Civil filings composed approximately 14 percent of the 1981 filings. Overall, civil filings decreased in 1981. This decrease was due mainly to a 7.5 percent decrease in small claims cases and 11.6 percent decrease in other civil cases. Probate cases, guardianship and conservatorship cases, and mental health and emergency commitment hearings all increased in 1981.

TABLE 16

CASELOAD SYNOPSIS OF COUNTY COURTS WITH INCREASED JURISDICTION FOR THE 1980 AND 1981 CALENDAR YEARS

	1981	1980	Percent Difference
New Filings	**74,563**	**88,459**	**−15.7**
Civil	10,384	10,636	− 2.4
Criminal	12,905	12,650	2.0
Noncriminal Traffic	51,274	65,173	−21.3
Cases Carried Over From Previous Calendar Year	**10,238**	**9,648**	**6.1**
Civil	7,847	6,542	19.9
Criminal	2,391	3,106	−23.0
Noncriminal Traffic	--	--	--
Total Cases Docketed	**84,801**	**98,107**	**−13.6**
Civil	18,231	17,178	6.1
Criminal	15,296	15,756	− 2.9
Noncriminal Traffic	51,274	65,173	−21.3
Dispositions	**73,147**	**87,869**	**−16.8**
Civil	9,477	9,331	1.6
Criminal	12,396	13,365	− 7.3
Noncriminal Traffic	51,274	65,173	−21.3
Cases Pending As of December 31	**11,654**	**10,238**	**13.8**
Civil	8,754	7,847	11.6
Criminal	2,900	2,391	21.3
Noncriminal Traffic	--	--	--

TABLE 17

COUNTY COURTS WITH INCREASED JURISDICTION CALENDAR YEAR 1981

County	Felony		Misdemeanor		Noncriminal Traffic			Total Non-criminal Traffic	Small Claims		Probate		Guardianship/ Conservatorship		Other Civil		Mental Health & Emerg. Commit.
	(F)	(D)	(F)	(D)	Convict.	Acquit.	Dismis.		(F)	(D)	(F)	(D)	(F)	(D)	(F)	(D)	
Barnes	42	41	503	465	3,233	4	0	3,237	204	287	73	36	3	0	11	11	89
Benson	8	7	218	212	947	19	1	967	85	107	50	22	1	0	6	7	8
Burleigh	186	194	1,051	936	4,624	32	0	4,656	753	740	117	105	30	25	478	483	74
Cass	198	194	1,246	1,331	7,693	63	2	7,758	1,391	1,383	244	184	59	47	443	397	264
Grand Forks	205	162	1,454	1,034	6,669	12	0	6,681	486	449	156	98	32	19	246	236	63
LaMoure	8	9	51	52	806	0	0	806	60	56	43	84	0	27	6	6	3
Mercer	28	27	327	334	1,275	25	1	1,301	106	103	37	12	1	2	24	24	9
Morton	68	74	538	516	4,861	0	0	4,861	320	320	95	0	6	1	1	2	24
Ramsey	40	39	739	728	1,802	48	1	1,851	104	99	87	55	12	14	23	23	10
Ransom	10	13	181	189	323	0	0	323	52	51	43	24	8	3	16	16	2
Richland	51	46	312	336	1,868	11	0	1,879	179	165	95	83	26	8	1	1	18
Stark	105	113	1,087	1,063	4,469	25	1	4,495	332	338	101	21	14	3	147	146	32
Stutsman	47	50	1,189	1,180	2,459	23	4	2,486	255	258	90	20	20	5	75	74	132
Walsh	49	40	457	441	2,009	0	0	2,009	194	167	108	81	15	1	67	66	54
Ward	99	108	932	1,015	4,079	76	1	4,156	524	536	198	64	31	6	410	415	127
Wells	1	1	32	32	625	1	0	626	35	33	69	62	9	1	20	19	0
Williams	133	132	1,310	1,282	3,149	33	0	3,182	189	156	149	103	22	1	131	120	57
TOTAL	1,278	1,250	11,627	11,146	50,891	372	11	51,274	5,269	5,248	1,755	1,054	289	163	2,105	2,046	966

County Justice Courts

There are thirty-six county justice courts in North Dakota. They have jurisdiction to hear criminal misdemeanor and infraction cases, noncriminal traffic cases, and civil money claims not exceeding $200 in value.

The criminal jurisdiction of a county justice court is generally the same as that of a county court with increased jurisdiction. Like county court with increased jurisdiction judges, county magistrates also act as committing magistrates in determining whether a person accused of a felony should be held for trial.

The civil jurisdiction of a county justice is limited by the nature of the claim as well as the amount of the claim. A mechanic's lien, for example, could not be foreclosed in county justice court even though the claim was less than $200.

In counties where there is a licensed attorney serving as county justice, the county justice is also authorized to conduct mental health and commitment proceedings. In those counties where the county justice is not a licensed attorney, mental health and commitment proceedings have been assigned to specific county courts with increased jurisdiction by a supreme court order.

County justice courts also serve as the small claims court for their respective counties. Their small claims jurisdiction is confined to cases for recovery of money or cancellation of any agreement involving fraud, deception, misrepresentation, or false promise. The jurisdictional limit is $500. The decisions of the county justice court acting in its capacity as the small claims court are final; there is no right of appeal.

Except in mental health and commitment proceedings, a county justice court is not a court of record. Since it is not a court of record, all appeals, except in mental health and commitment proceedings, result in a new trial by the district court.

The county justices are elected for four-year terms. State law requires that they be licensed attorneys unless there is no licensed attorney in the county who is willing to serve as county justice. A county justice may serve more than one county at the same time.

Like the county courts with increased jurisdiction, the caselcad of the county justice courts is comprised mainly of noncriminal traffic cases (84%), criminal cases (11%) and small claims cases (4%). Mental health and commitment hearings constitute only a negligible proportion of the caseload.

In 1981 the number of filings and dispositions decreased in almost all categories. Only certain types of civil cases recorded increases in filings or dispositions. Table 18 provides a synopsis of caseload activity for the last two years. A more complete breakdown of filings and dispositions by type of case is provided in Table 19.

TABLE 18
CASELOAD SYNOPSIS OF COUNTY JUSTICE COURTS FOR THE CALENDAR YEARS 1980 AND 1981

	1981	1980	Percent Difference
New Filings	**27,125**	**31,308**	**−13.4**
Civil	1,322	1,298	1.9
Criminal	2,932	3,247	− 9.7
Noncriminal Traffic	22,871	26,763	−14.5
Cases Carried Over From Previous Calendar Year	**1,250**	**1,180**	**5.9**
Civil	165	87	89.7
Criminal	1,085	1,093	− 0.7
Noncriminal Traffic	--	--	--
Total Cases Docketed	**28,375**	**32,488**	**−12.7**
Civil	1,487	1,385	7.4
Criminal	4,017	4,340	− 7.4
Noncriminal Traffic	22,871	26,763	−14.5
Dispositions	**27,089**	**31,238**	**−13.3**
Civil	1,289	1,220	5.7
Criminal	2,929	3,255	−10.0
Noncriminal Traffic	22,871	26,763	−14.5
Cases Pending As of December 31	**1,286**	**1,250**	**2.9**
Civil	198	165	20.0
Criminal	1,088	1,085	0.3
Noncriminal Traffic	--	--	--

TABLE 19
COUNTY JUSTICE COURT CASE FILINGS AND DISPOSITIONS
CALENDAR YEAR 1981

County	Felony		Misdemeanor		Noncriminal Traffic			Total Non-criminal Traffic	Small Claims		Other Civil		Mental Health Hearings Held
	(F)	(D)	(F)	(D)	Convict.	Acquit.	Dismis.		(F)	(D)	(F)	(D)	
Adams	1	1	19	10	452	0	0	452	22	18	12	10	0
Billings	0	1	66	64	1,787	0	0	1,787	5	5	0	0	0
Bottineau	4	3	4	5	832	8	1	841	44	44	1	0	5
Bowman	1	1	53	56	460	18	0	478	31	31	0	0	7
Burke	0	0	7	8	187	2	0	189	10	11	0	0	1
Cavalier	0	1	13	13	439	6	0	445	41	37	0	0	6
Dickey	4	5	34	44	665	1	0	666	127	132	0	0	1
Divide	2	3	89	85	385	4	0	389	4	4	0	0	0
Dunn	3	2	131	127	825	9	0	834	7	3	0	0	0
Eddy	0	0	90	92	431	5	4	440	10	9	0	0	12
Emmons	3	3	87	90	522	5	0	527	33	34	0	0	11
Foster	8	9	23	27	313	0	0	313	41	42	0	0	1
Golden Valley	11	4	16	5	475	3	0	478	9	6	0	0	7
Grant	0	0	11	11	386	0	0	386	27	24	6	3	1
Griggs	1	2	113	123	781	3	0	784	18	17	1	0	1
Hettinger	0	0	30	9	239	0	0	239	24	23	4	3	0
Kidder	0	0	59	58	1,662	0	0	1,662	8	10	0	0	0
Logan	1	1	22	22	210	1	0	211	7	7	0	0	1
McHenry	16	34	141	138	1,284	1	0	1,285	68	65	0	0	0
McIntosh	4	2	74	69	243	0	0	243	21	19	0	0	2
McKenzie	0	0	0	0	2,550	16	1	2,567	50	46	0	0	1
McLean	7	9	205	187	1,326	18	2	1,346	46	46	0	0	7
Mountrail	1	1	120	120	681	3	0	684	59	45	0	0	6
Nelson	6	5	83	87	498	0	0	498	37	36	3	3	0
Oliver	2	7	33	31	282	0	0	282	15	14	1	1	2
Pembina	24	25	66	64	1,179	8	0	1,187	58	70	3	1	13
Pierce	5	6	124	145	509	6	0	515	49	59	0	0	3
Renville	0	0	39	38	335	2	0	337	3	3	1	0	1
Rolette	43	41	497	461	797	30	1	828	74	72	1	0	5
Sargent	8	9	91	122	194	6	0	200	62	65	0	0	5
Sheridan	0	0	0	0	129	0	0	129	4	4	0	0	0
Sioux	0	0	13	15	13	1	0	14	10	9	0	0	0
Slope	0	0	19	16	189	0	0	189	1	1	0	0	0
Steele	1	2	22	22	218	0	0	218	9	7	0	0	0
Towner	2	3	138	130	701	9	0	710	17	6	0	0	0
Traill	47	49	195	206	513	5	0	518	126	132	0	0	13
TOTAL	205	229	2,727	2,700	22,692	170	9	22,871	1,177	1,156	33	21	112

County Courts

County courts have exclusive original jurisdiction in probate and testamentary matters, including the appointment of administrators and guardians. Thirty-six counties have county courts.

The jurisdiction of the county court is limited strictly by statute and case law. Although trust matters are closely related to probate cases and may arise in a probate case, they cannot be tried in a county court.

By statute, appeals are taken from the county court to the district court. North Dakota statutes appear to require probate proceedings in the county court to be on the record, but the current practice is to the contrary. Verbatim transcripts or records of the proceedings are not compiled. The usual method of appeal is a trial *de novo* in district court.

There is no requirement that the judge of the county court be trained in the law and the office is usually filled by a lay judge. All county judges run for election every four years. The duty of county judge is combined with the office of clerk of the district court in rural counties.

For the first time since the passage of the Uniform Probate Code in 1975, the number of probate filings in the county courts increased. Although they increased by 5.6 percent in 1981, they were still about 11 percent below the 1978 level. Guardianship and conservatorship filings increased 73.5 percent in 1981.

Although dispositions in guardianship and conservatorship cases increased by 121 percent in 1981, the 8 percent decrease in probate dispositions brought the total dispositions in county court to about 4 percent below the 1980 level. However, the comparison with the 1980 data should be viewed with caution because several counties did not report county court caseload information to the Court Administrator's Office in 1980. Thus, the 1980 statistics may be somewhat deflated.

It should also be noted that the procedure established by the Uniform Probate Code makes it very difficult to obtain an accurate count of probate filings, dispositions and pending cases. The information which was reported is provided in Tables 20 and 21.

TABLE 20

CASELOAD SYNOPSIS OF COUNTY COURTS FOR THE CALENDAR YEARS 1980 AND 1981

	1981	1980	Percent Difference
New Filings	1,594	1,453	9.7
Cases Carried Over From Previous Year	3,993	3,803	5.0
Total Cases Docketed	5,587	5,256	6.3
Dispositions	1,214	1,263	— 3.9
Cases Pending As of December 31	4,373	3,993	9.5

TABLE 21

COUNTY COURT FILINGS AND DISPOSITIONS CALENDAR YEAR 1981

County	Probate		Guardianship/ Conservatorship		Total	
	(F)	(D)	(F)	(D)	(F)	(D)
Adams	40	38	1	0	41	38
Billings	8	8	2	2	10	10
Bottineau	88	55	6	0	94	55
Bowman	54	65	6	1	60	66
Burke	47	41	8	0	55	41
Cavalier	59	45	3	1	62	46
Dickey	35	27	3	1	38	28
Divide	55	43	2	2	57	45
Dunn	38	34	5	0	43	34
Eddy	16	12	3	1	19	13
Emmons	36	12	4	4	40	16
Foster	26	3	0	0	26	3
Golden Valley	26	9	12	8	38	17
Grant	19	22	1	0	20	22
Griggs	24	17	1	2	25	19
Hettinger	24	18	3	1	27	19
Kidder	25	22	3	3	28	25
Logan	20	10	1	1	21	11
McHenry	73	63	1	1	74	64
McIntosh	34	29	20	0	54	29
McKenzie	69	51	8	29	77	80
McLean	72	42	8	0	80	42
Mountrail	92	61	5	4	97	65
Nelson	43	39	3	3	46	42
Oliver	9	24	1	5	10	29
Pembina	72	37	0	0	72	37
Pierce	32	46	5	10	37	56
Renville	41	56	0	0	41	56
Rolette	41	31	7	3	48	34
Sargent	35	29	0	1	35	30
Sheridan	20	16	1	3	21	19
Sioux	13	4	0	0	13	4
Slope	18	12	5	0	23	12
Steele	25	21	3	0	28	21
Towner	30	36	12	6	42	42
Traill	84	43	8	1	92	44
TOTAL	1,443	1,121	151	93	1,594	1,214

Municipal Courts

There are 365 incorporated cities in North Dakota. Of the total municipalities, 161 cities have municipal courts. There are 150 judges serving these 161 municipalities. State law permits an individual to serve more than one city as a municipal judge.

In 1981 the Legislature amended the state law pertaining to municipalities to allow each municipality the option of deciding whether or not to have a municipal judge. Before this amendment, all incorporated municipalities were required to establish a municipal court. Despite this requirement, those incorporated cities which did not have a police force tended not to have a municipal court.

The municipal judges have exclusive jurisdiction over all violations of municipal ordinances, except certain violations involving juveniles. Violations of state law are not within the jurisdiction of the municipal courts.

A municipal judge is elected for a four-year term. He must be a qualified elector of the city, except in cities with a population below 3,000. He also must not be in debt to the city.

Most municipal judges in the state are lay judges. However, in cities with a population of 3,000 or more the municipal judge is required to be a licensed attorney unless an attorney is unavailable or not interested in serving. At present, there are 19 legally-trained municipal judges in the state.

State law requires that each municipal judge attend at least one educational seminar per calendar year conducted by the Supreme Court. If a municipal judge fails to meet this requirement without an excused absence from the supreme court, his name is referred to the Judicial Qualifications Commission for such disciplinary action as is deemed appropriate by the Commission.

Traffic cases comprise the bulk of the cases processed by municipal courts. In Fargo, for example, over 85 percent of the cases disposed of by the municipal court in 1981 were traffic cases. Of the remaining cases, 4.5 percent involved thefts and shoplifting, 3.6 percent related to the license and control of animals, 3.6 percent were disorderly conduct cases, 2.1 percent involved violation of the liquor laws, and less than 1 percent were various miscellaneous violations.

Like the traffic cases disposed of in the county courts with increased jurisdiction and the county justice courts, the traffic cases disposed of by municipal courts decreased in 1981. As shown in Table 22, most of these dispositions resulted in convictions.

The majority (76%) of all traffic cases are processed by ten communities, or less than 3 percent of all municipalities in the state. Within these ten communities, the greatest increase in traffic dispositions have occurred in those cities which are in the western part of the state. This probably reflects population increases and other social and economic changes brought about by the recent surge of energy development in the western part of the state.

Of the municipal courts' traffic caseload, approximately 91 percent are administrative traffic cases. Administrative traffic cases can be processed in less time than it takes to dispose of criminal traffic matters. There is a lesser degree of burden of proof for administrative traffic cases. In addition, the majority of the less serious traffic cases are disposed of with bond forfeitures. While no judge time is needed to process bond forfeitures, support personnel in the office of clerk of municipal court must account for every citation received by the court.

TABLE 22

COMPARISON OF ALL MUNICIPAL COURT TRAFFIC DISPOSITIONS FOR CALENDAR YEARS 1980 AND 1981

Type of Dispositions	Criminal Dispositions		Noncriminal Dispositions		Total Traffic Dispositions		Percent Difference
	1981	1980	1981	1980	1981	1980	
Conviction	4,201	4,022	44,635	47,362	48,836	51,384	− 5.0
Acquittal	328	230	839	870	1,167	1,100	6.1
Dismissal	23	27	43	91	66	118	−44.1
TOTAL	4,552	4,279	45,517	48.323	50,069	52,602	− 4.8

TABLE 23

COMPARISON OF MUNICIPAL COURT TRAFFIC CASE DISPOSITIONS FOR SELECTED MUNICIPALITIES FOR CALENDAR YEARS 1980 AND 1981

Municipalities With Highest Case Volume	Criminal Traffic Dispositions		Noncriminal Traffic Dispositions		Total Traffic Dispositions		Percent Difference
	1981	1980	1981	1980	1981	1980	
Bismarck	374	478	5,901	6,226	6,275	6,659	− 5.8
Devils Lake	266	239	1,019	910	1,285	1,149	11.8
Dickinson	188	176	2,870	2,271	3,058	2,447	25.0
Fargo	407	372	4,077	5,548	4,484	5,920	−24.3
Grand Forks	744	725	3,906	5,209	4,650	5,934	−21.6
Jamestown	102	135	2,263	2,704	2,365	2,839	−16.7
Mandan	166	188	1,333	1,509	1,499	1,697	−11.7
Minot	541	497	7,581	7,864	8,122	8,361	− 2.9
Wahpeton	160	227	882	1,057	1,042	1,284	−18.8
Williston	546	343	4,576	3,816	5,122	4,159	23.2
TOTAL	3,494	3,335	34,408	37,114	37,902	40,449	− 6.3

Administration of the Judicial System

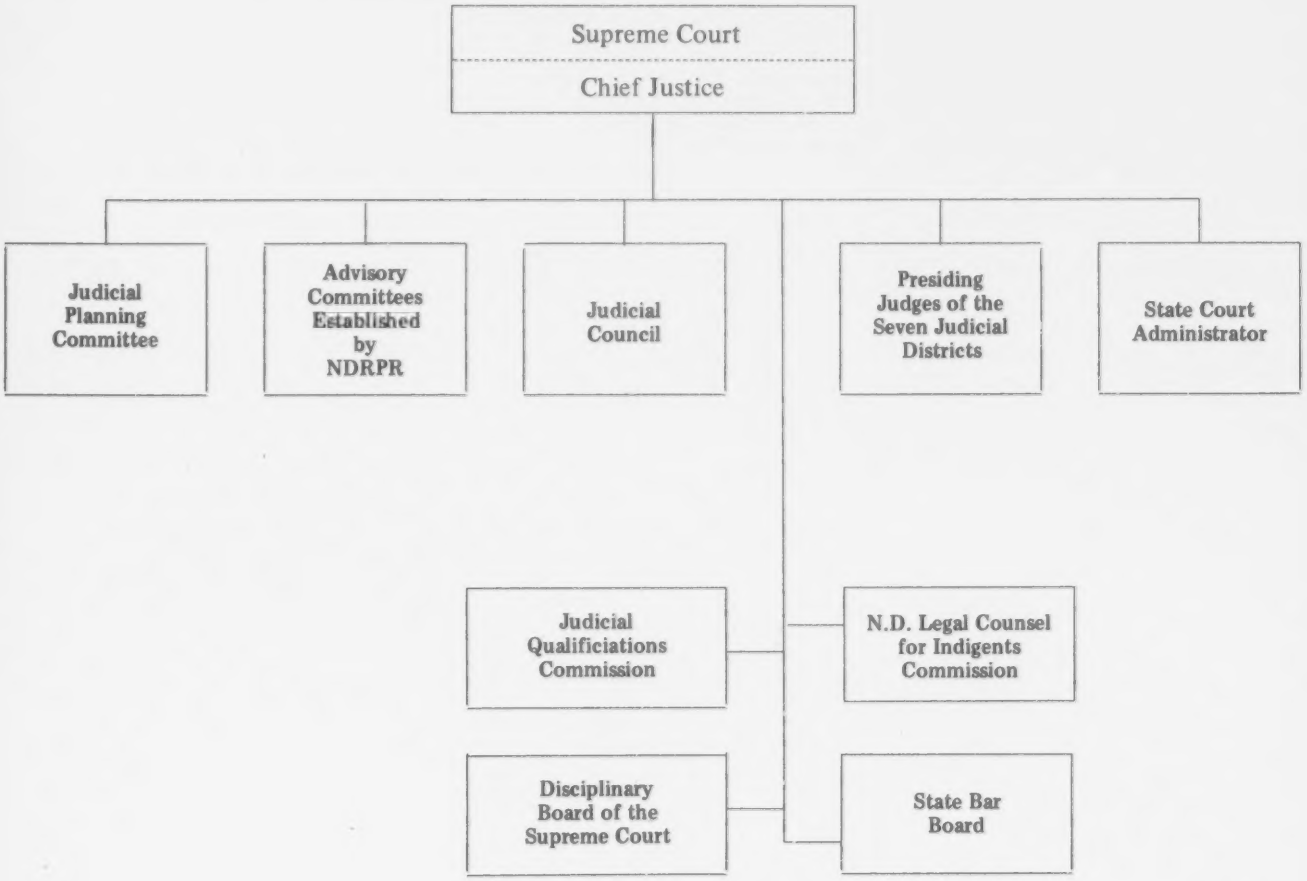
Ultimate responsibility for the efficient and effective operation of the judicial system resides with the supreme court. The constitution has emphasized the supreme court's administrative responsibility for the judicial system by designating the chief justice as the administrative head of the judicial system. In addition, the state constitution also grants the supreme court supervisory authority over the legal profession. Article VI, Section 3 states that the supreme court shall have the authority, "unless otherwise provided by law, to promulgate rules and regulations for the admission to practice, conduct, disciplining, and disbarments of attorneys at law."

To help it fulfill these administrative and supervisory responsibilities, the supreme court relies upon the state court administrator, presiding judges, and various advisory committees, commissions and boards. The functions and activities of these various bodies during 1981 are described in the subsequent pages of this report.

A diagram of the administrative organization of the North Dakota judicial system is provided in Figure 8.

FIGURE 8

ADMINISTRATIVE ORGANIZATION OF THE NORTH DAKOTA JUDICIAL SYSTEM



Office of State Court Administrator

Article VI, Section 3 of the North Dakota Constitution authorizes the chief justice of the supreme court to appoint a court administrator for the unified judicial system. Pursuant to this constitutional authority, the supreme court has outlined the powers, duties, qualifications and term of the state court administrator in an administrative rule. The duties delegated to the state court administrator include assisting the supreme court in the preparation of the judicial budget, providing for judicial education services, coordinating technical assistance to all levels of courts, and planning for statewide judicial needs.

Legislation

The court administrator is responsible for monitoring legislation affecting the judiciary and providing legislative committees with information about North Dakota courts. This legislative liaison function was especially important in 1981 because the legislature was in session. A summary of some of the significant legislation concerning courts passed by the 1981 Legislature is provided below.

The most important legislation in regard to its impact on the judiciary was House Bill 1060, commonly called the county courts' bill. Effective January 1, 1983, the county courts' bill creates a uniform county court system throughout the state, requires that all county judges be licensed attorneys, and establishes county judgeships as full-time judicial positions. To accommodate the needs of the sparsely populated counties in North Dakota, the county courts legislation permits two or more counties to share the services of a county judge by entering into multi-county agreements. In those counties which have contracted to share the services of a county judge, the county judge can appoint a county magistrate in the counties where he does not reside to handle routine judicial matters until his arrival. The qualifications and authority of the magistrate are to be established by supreme court rule.

The county courts' bill also shifted the funding of most district court services from the counties to the state. These funding provisions became effective on July 1, 1981.

Numerous other court-related bills were also passed by the 1981 Legislature. They include legislation to upgrade the salaries of supreme court and district court judges, to make the office of municipal judge optional rather than mandatory, and to resolve conflicts between supreme court rules and statutes in such areas as the supreme court's rulemaking authority, change of judge procedures, assignment of judges, and terms of court. Although the legislature also considered legislation proposing changes in the current judicial retirement system, it did not adopt any new legislation in this area.

Judicial Education

Under the guidance and supervision of the Judicial Council Committee on Judicial Training, the Office of State Court Administrator develops and coordinates training programs for all levels of judicial and court support personnel. In addition, a number of other professional development and information activities are coordinated and conducted under the auspieces of the state court administrator. These activities are described in greater detail in the section of this report which discusses the activities of the Judicial Training Committee and other committees which perform judicial educational functions.

Judicial Planning

Staff services are provided to the Judicial Planning Committee and other advisory committees of the supreme court by the planning staff in the state court administrator's office. The duties of these staff personnel include research, bill drafting, rule drafting, arrangement of committee meetings, and such other tasks that are assigned by the various committees. Specific activities and projects of the different supreme court standing committees are provided in a latter section of this report.

Administrative Functions

The court administrator's office also performs a variety of ongoing administrative functions. Included among these functions are: the management of the court information system, coordination of Judicial Council committees, administration of personnel policies, and the supervision of special projects. During 1981 the court administrator's office also planned and coordinated the move to the new supreme court facility in the Judicial Wing of the State Capitol.

The study and development of uniform personnel policies for district courts took place under the auspices of the state court administrator in 1981. Utilizing a grant from the Bremer Foundation, a special consultant was hired to develop a personnel plan for the district courts of North Dakota. After the passage of the county courts' bill and the assumption of most of the district courts' costs by the state, a personnel plan based upon the consultant's recommendations was adopted by the supreme court. Study of a personnel plan for supreme court employees is now under consideration.

Staff services were also provided to a special committee of clerks of district courts studying a records disposition program for district court records. After considerable study, the Committee developed a records retention proposal which it referred to the Court Services Administration Committee for further study and review.

Fiscal Responsibilities and the Judicial Budget

One of the court administrator's primary responsibilities is the management of the judicial budget. With the passage of the county courts' bill in 1981, the judicial budget was expanded to incorporate most of the district courts' costs, as of July 1, 1981. Prior to the state assumption of these costs, the judicial budget included only the salaries and travel expenses of district court judges and the salaries and operating expenses of the North Dakota Supreme Court and staff.

A new fiscal division was established within the Court Administrator's Office in 1981 to assist the supreme court in carrying out its increased fiscal responsibilities. This new division is responsible for the coordination and preparation of the judicial budget, preparation and analysis of monthly budget status reports, assistance in the development of judicial budgetary policies, and the maintenance of payroll records for judicial employees.

Different aspects of the judicial budget are presented in Figures 9, 10, and 11. As Figure 9 illustrates, even with the addition of most district court expenses to the judicial budget, the judicial budget constitutes only a small segment of the total funds appropriated by the legislature for the 1981-1983 biennium. However, this is not to say that the budgetary impact of the additional expenses was minimal. As a result of the new budgetary responsibilities, the judicial portion of the state budget doubled from what it was in the 1979-1981 biennium.

The impact of the county courts' bill can also be seen in the way in which the judicial budget is allocated. Whereas in the 1979-1981 biennium the supreme court portion of the judicial budget was 41 percent, in the 1981-1983 biennium it is only 21 percent.

While over $16 million were appropriated for the supreme court for the 1981-1983 biennium, the supreme court adopted budgetary policies in late 1981 designed to help it return five percent of its budget to the state at the end of the biennium. These policies were adopted in response to the Governor's request that all state agencies reduce their expenditures by five percent in order to help ease the State's anticipated shortfall in revenues.

FIGURE 9

JUDICIAL PORTION OF THE STATE'S BUDGET
1981-1983 BIENNIUM

Total General and Special Funds Appropriation

$ 2,110,765,070

Judicial System General and Special Funds Appropriation

$16,008,845

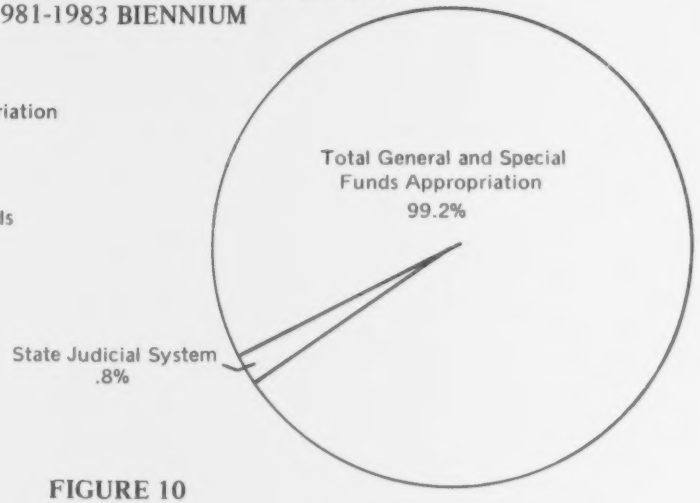
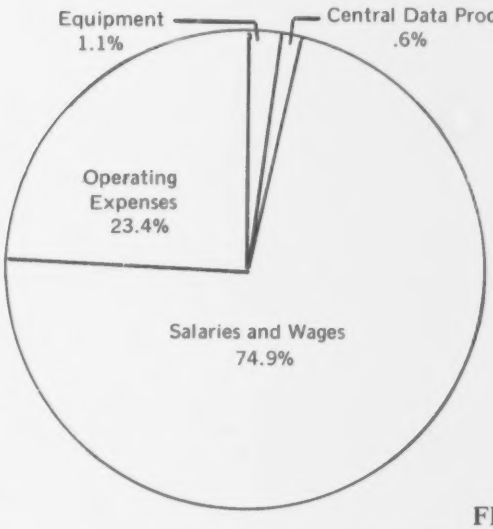


FIGURE 10

STATE JUDICIAL SYSTEM APPROPRIATION BY TYPE OF ACTIVITY
1981-1983 BIENNIUM



Total Judicial System General and Special Funds Appropriation

$16,008,845

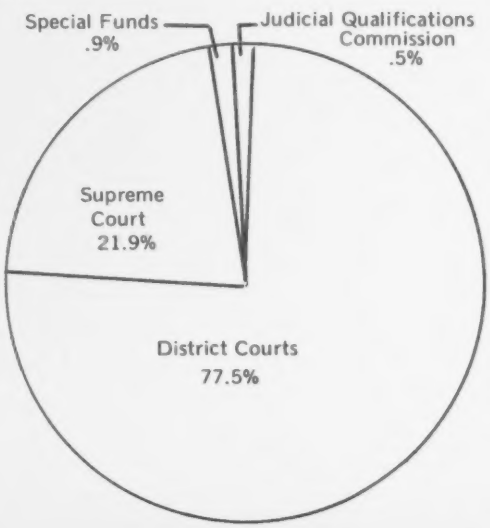
Salaries and Wages	$11,999,925
Operating Expenses	3,743,620
Central Data Processing	91,000
Equipment	174,300

FIGURE 11

STATE JUDICIAL SYSTEM APPROPRIATION BY TYPE OF COURT
1981-1983 BIENNIUM

Supreme Court	
General Fund	$ 3,388,166
Special Funds	60,000
TOTAL	$ 3,448,166
District Courts	
General Fund	$12,403,116
Special Funds	---
TOTAL	$12,403,116
Judicial Qualification Commission	
General Fund	$ 78,782
Special Funds	78,781
TOTAL	$ 157,563

**Special Funds received include federal grant funds and funds from the State Bar Association for disciplinary procedures.*



Advisory Committees of the Supreme Court

There are five standing advisory committees of the supreme court which assist the court in its administrative supervision of the North Dakota judicial system. Four of these committees-the Joint Procedure Committee, the Attorney Standards Committee, the Judiciary Standards Committee, and the Court Services Administration Committee-were established by the supreme court in 1978 as an essential part of its rulemaking process. One of these committees, the Joint Procedure Committee, existed before the supreme court adopted its rulemaking process, but was incorporated into the advisory committee structure created by the supreme court rulemaking process. A fifth advisory committee, the Judicial Planning Committee, was established by supreme court rule in 1976.

The Judicial Planning Committee

The Judicial Planning Committee is the forum for overall planning for judicial services in North Dakota. It is chaired by Justice Vernon R. Pederson and its membership includes representatives of presiding judges, attorneys, district, county, and municipal judges, court support personnel, and the public. The role of the Committee is to identify, describe, and clarify problem areas which can be referred to judicial leaders and other standing committees for resolution.

As part of its planning process, the Committee prepares a *Judicial Master Program* for the upcoming biennium which sets the goals, objectives, and tasks for the judicial system. In addition, it also prepares the *North Dakota Judicial Planning Committee Working Papers*. These Working Papers contain a description and analysis of court structures and services and identify specific problems and needs within each subject area.

Much of the Committee's efforts during 1981 were spent preparing the Judicial Master Program for the Biennium Ending June 30, 1983. This Judicial Master Program was submitted to the supreme court in May and adopted by the supreme court in June.

In the fall of 1981 preparation began for the Judicial Master Program for the Biennium Ending June 30, 1985. A questionnaire soliciting views regarding problems with court services and suggestions for improvements was sent to judges, attorneys, court personnel, and representatives of the public. District plans from each of the seven judicial districts were also reviewed by the Committee.

During 1981 the Committee discussed a wide variety of judicial issues and problems. These included allocation of judicial leadership responsibilities in the absence of the chief justice, a mechanism for processing legislative proposals which originate within the judiciary, support services for lay municipal judges, media guidelines for judges, and legislative proposals to remedy deficiencies in the county courts' bill. All these matters were referred to other standing committees for further discussion and appropriate action. Other topics, such as docket control solutions for the supreme court, are still under discussion by the Committee.

The Joint Procedure Committee

The Joint Procedure Committee is composed of ten judges representing the North Dakota Judicial Council, and ten attorneys representing the State Bar Association. The committee is chaired by Justice Paul M. Sand, North Dakota Supreme Court. David Lee serves as full-time staff counsel for the Committee.

The Committee's duties include study, discussion, and revision of the procedural rules of North Dakota, including the Rules of Civil Procedure, Criminal Procedure, Appellate Procedure, Evidence, and other rules of pleading, practice and procedure. The Committee proposes amendments to existing rules or the adoption of new procedural rules when appropriate.

During 1981, the Committee proposed, and the supreme court adopted, amendments to a number of procedural rules. The following rules were amended: Rules 5, 10, 16, 25, 26, 28, 30, 32, 33, 34, 37, 40, 45, 59, 60, 65, 81, 83, and 86, North Dakota Rules of Civil Procedure; Rule 57, North Dakota Rules of Criminal Procedure; and Rule 801, North Dakota Rules of Evidence. Several explanatory notes were also amended. In addition, a new set of rules, called the North Dakota Rules of Court, was adopted, effective July 1, 1981. This new set of rules is for statewide use and is intended to replace the Rules of Court for the District Courts and all existing local rules.

All of the procedural rules have now been published in one bound pamphlet printed by West Publishing Company. This pamphlet will be printed every two years, with changes in the interim being published in the advance sheets to the North Western Reporter.

The Committee also started a study of the discovery process in civil actions and a study of the Uniform Rules of Criminal Procedure (1974), with a view to determining whether or not some of those rules should be incorporated into our present Rules of Criminal Procedure.

The Attorney Standards Committee

The Attorney Standards Committee studies and reviews all rules for attorney supervision. Edmund Vinje, II, of Fargo, is the chairman of the Committee.

During 1981 the Committee submitted a proposal to the supreme court recommending that the Limited Practice of Law by Law Students Rule be amended to permit law students attending ABA accredited law schools outside of North Dakota to participate in the student practice program in North Dakota. It also recommended that the period of coverage under the rule be expanded. The supreme court adopted both recommendations.

The Committee also adopted clarification amendments to the lawyer advertising section of the Code of Professional Responsibility which were forwarded to the State Bar Association of North Dakota (SBAND) for its consideration. With some minor modifications, these amendments were adopted by the supreme court at the request of the State Bar Association. A proposal to amend the Rule on Procedural Rules, Administrative Rules and Administrative Orders of the North Dakota Supreme Court (NDRPR) to delegate supreme court authority in the areas of mandatory continuing legal education and the Code of Professional Responsibility to the SBAND was also adopted by the Committee and submitted to the supreme court for adoption.

At the end of 1981 the Committee was beginning its study of the Admission to Practice Rule.

The Judiciary Standards Committee

The Judiciary Standards Committee, chaired by Lowell Lundberg, studies rules of judicial discipline, judicial ethics, the judicial nomination process, and all other rules relating to the supervision of the judiciary.

After a comprehensive study of the Code of Judicial Conduct, the Committee recommended several changes in the Code to the supreme court. The court adopted the Committee's primary recommendations to eliminate all gender references to judges in the Code and to make the Code mandatory by changing the title of the Code to the Rules of Judicial Conduct and by substituting "shall" for "should" throughout the Code. Several clarification amendments

recommended by the Committee were also adopted by the court. However, the court rejected the Committee's proposed amendments to the judicial campaign provisions of the Code and its recommendation that most of the commentary be deleted.

The Committee also drafted and approved a legislative proposal to allow each municipality the option of establishing a municipal court. The proposal was adopted by the 1981 Legislature.

Other topics under study by the Committee's various subcommittees include the allocation of judicial leadership responsibilities in the absence of the chief justice, the need for media guidelines for judges, and the conflict of interest problems of part-time judges.

Court Services Administration Committee

The Court Services Administration Committee studies and reviews all rules and orders pertaining to the administrative supervision of the judicial system. It is chaired by William Strutz of Bismarck.

Several of the Committee's recommended rule changes were adopted by the supreme court in 1981. A State Bar Association proposal for the establishment of an Indigent Defense Commission was reviewed and modified by the Committee before its adoption by the supreme court. The supreme court also adopted the Committee's recommendations to establish a change of judge procedure for municipal judges, to create a self-disqualification procedure for judges, and to expand the assignment authority granted to presiding judges in Administrative Rule 2. Another proposal recommending the establishment of a formal procedure for soliciting and channeling legislative proposals developed within the judicial system was also submitted to the supreme court in November, 1981. It will be discussed at the June, 1982 meeting of the Judicial Council.

Development of a county magistrate rule and the review of a proposed rule establishing procedures and retention schedules for district court records were also begun in 1981. The proposed records retention rule was referred to the Committee by a special committee of district court clerks.

Judicial Education Committees

The North Dakota Supreme Court has set professional development of its judges and judicial support personnel as a high priority. The coordination and development of actual training programs is by the staff of the Office of State Court Administrator, under the guidance and approval of the Judicial Council's Special Committee on Judicial Training.

In addition to the regular training programs, a number of other activities in the area of professional development and public information are staffed by personnel from the Office of State Court Administrator. The actual work is under the direction of both *ad hoc* committees and other standing committees of the Judicial Council.

Special Committee on Judicial Training of the North Dakota Judicial Council

Training programs and activities in 1981 were reviewed by the Special Committee on Judicial Training, chaired by Judge Larry Hatch. They included both in-state programs and participation at specialty out-of-state educational programs.

With the cutbacks in federal funds for judicial training, emphasis on the development and presentation of in-state programs has increased in recent years. These programs provide a cost-effective alternative to out-of-state seminars. Out-of-state programs, especially those conducted by the National Judicial College and the American Academy for Judicial Education, are still used on a selected basis to provide specialty training in areas that cannot be met cost effectively at the state level.

During calendar year 1981, a host of in-state programs were conducted. At least one program was conducted for every level of the judiciary and for all support personnel within the North Dakota judicial system. Certain programs for limited jurisdiction judges are conducted as part of the annual mandatory training requirement for all limited jurisdiction judges. In all, 352 judges and support personnel participated in 9 in-state seminars.

In addition, North Dakota also participated in the third bi-state program on judicial writing in cooperation with the Minnesota Judiciary. In attendance at the judicial writing program were four district judges, two county judges with increased jurisdiction, and one supreme court staff attorney.

Participation in out-of-state seminars is determined by priorities set by the Judicial Training Committee. Highest consideration goes to newly-elected and appointed full-time judges. Participation is limited to programs that provide a general background for the new judges to assist them in carrying out their responsibilities on the bench. Once this objective has been met, the second priority is for general jurisdiction judges to participate in a national scope program approximately every four years, based on the availability of funds. In 1981 four district judges, two county judges with increased jurisdiction, and two trial court personnel participated in out-of-state seminars.

Judicial Council Committee of Courts With Limited Criminal Jurisdiction

The Judicial Council Committee of Courts with Limited Criminal Jurisdiction, chaired by Judge Robert Mandel, met in 1981 to approve the work on an update of the North Dakota Court Manual for Courts with Limited Jurisdiction. This benchbook for limited jurisdiction judges was completed in 1975. It has not been updated since that time. Professor Robert Vogel, University of North Dakota School of Law, served as staff for the review and update of the manual. This court manual serves as a training guide for all limited jurisdiction judges in the state and is an excellent reference for limited jurisdiction judges, especially lay judges.

The committee also approved a brochure for general dissemination on "How to Probate a Simple Estate." Professor Al Bott of the University of North Dakota School of Law worked with the committee in the preparation of this brochure. The brochure has been disseminated to all probate courts for distribution to individuals having questions on how to close a simple estate.

General Jurisdiction Benchbook Committee

During the year, an *ad hoc* committee, under the chairmanship of Judge Gerald Glaser, worked on the preparation of a benchbook for general jurisdiction judges. The project was financed by funds from the Bremer Foundation. Staff assistance was provided by personnel from the North Central Regional Office of the National Center for State Courts. The benchbook will be an aid to newer judges as well as a handy reference for veteran judges in areas of the law that they have not had to confront on a regular basis.

Clerk of Court Procedural Manual

In 1981 an *ad hoc* committee of clerks of district court and clerks of county court met to update the Clerk of Court Procedural Manual. The update resulted from activity of the 1981 Legislative Assembly. This extensive "how to do it" procedural guide for clerks of court and staff was first completed through the active involvement of a committee of clerks of district and county court. All updates, as the one just completed, will be accomplished following the biennial legislative sessions.

Juvenile Court Video Tape Production

An *ad hoc* committee of juvenile supervisors, probation officers, and one state's attorney completed work on a video production about the North Dakota juvenile courts. The project's purpose was to create a public information and training video tape. The outcome was a production that can be used by juvenile court personnel, educators, and the general public to explain the function of our juvenile courts, the personnel that staff the courts, and the processing of youthful offenders.

Courthouse Renovation and Building Brochure

A public information brochure was completed by the Office of State Court Administrator to serve as a basic primer for local units of government contemplating renovation or new construction of a courthouse facility. This brochure was an outgrowth of a preliminary judicial master plan project completed earlier. It is of value to county commissioners and the general public in identifying those issues that should be considered in a courthouse construction or renovation project.

North Dakota Legal Counsel for Indigents Commission

The North Dakota Legal Counsel for Indigents Commission was created by Supreme Court rule on June 29, 1981. The Commission is composed of seven members who are appointed by the chief justice. Bruce Bohlman of Grand Forks is the chairman of the Commission.

The Commission's main function is to provide a mechanism for the resolution of counsel fee disputes between judges and court appointed attorneys who are representing indigent defendants in criminal, mental health, and juvenile cases. It also provides technical assistance concerning indigent defense services to judicial districts and counties.

Since its formation, the Commission has developed rules for Commission review of counsel fee disputes and has prepared guidelines and forms for the establishment of administrative remedies for counsel fee disputes in each judicial district.

Currently, the Commission is studying guidelines and procedures for determining eligibility for the appointment of counsel for indigent defendants, procedures for the payment of counsel fees and other defense expenses, and procedures for the recoupment of the costs of attorney services from defendants who have adequate financial resources.

The funds appropriated by the legislature for indigent defense services in the district courts are administered through the Office of State Court Administrator.

The State Bar Board

The State Bar Board was created by statute and consists of three resident, licensed members of the bar of North Dakota appointed by the supreme court to serve six-year terms. The present members of the Board are E. Hugh McCutcheon of Minot, President, John D. Kelly of Fargo and Malcolm H. Brown of Mandan. The clerk of the supreme court serves as ex-officio secretary-treasurer of the State Bar Board.

The State Bar Board administers bar examinations for aspiring lawyers at least once a year, passes on the character and fitness of applicants, and recommends successful applicants to the supreme court for admission. The Board is also responsible for collecting the annual license fees of attorneys and publishing the annual directory of licensed attorneys and judges. In 1981, the Board issued 1,184 licenses to attorneys and judges. The financial accounts of the Board are maintained by the secretary-treasurer. The secretary-treasurer also maintains biographical material on lawyers admitted to the North Dakota bar.

Two bar examinations were given in 1981, a February exam in Bismarck and a July exam in Grand Forks. Thirteen individuals sat for the bar exam in Bismarck. One of these individuals failed the exam. The number taking the exam in Grand Forks was 79, of which 7 failed.

There were 96 admissions to the North Dakota Bar in 1981. Fifteen of those admissions were individuals who had practiced law in another state for the requisite period of time and were admitted on motion. Eighty-one were admitted through the examination process.

The supreme court adopted a rule in 1980 establishing an appeal procedure for applicants who fail the bar exam or receive a negative recommendation for admission. This rule was used for the first time in 1981. However, in its decision, the Court upheld the negative recommendation of the Bar Board.

Disciplinary Board of the Supreme Court

The Grievance Commission of the Supreme Court, established in August, 1965, by supreme court rule, was the predecessor of the Disciplinary Board of the Supreme Court. On July 1, 1977, the Grievance Commission of the Supreme Court became the Disciplinary Board of the Supreme Court. New rules of procedure were adopted by the Court for the new Board and the membership was increased from six members to nine members. All three members added to the Board were lay members.

The Disciplinary Board now consists of ten members; seven lawyer members, one from each judicial district of North Dakota, and three lay members chosen from the state at large. Current members of the Board are David L. Peterson, Chairman, Mark L. Stenehjem, Vice Chairman, Sandi Lang Frenzel, Gerald D. Galloway, Jake C. Hodny, Ruth Meiers, Alice Olson, Henry G. Ruemmele, Raymond R. Rund, and Ronald G. Splitt. Luella Dunn, the Clerk of the Supreme Court, is the Secretary of the Board.

Prior to amendment of the North Dakota Constitution in 1976, the authority of the supreme court to regulate the conduct of attorneys in this state was statutory, if not inherent. Section 27-02-07, NDCC, provided that the supreme court could make all necessary rules for "the admission of persons to practice the profession of law", "the disbarment, disciplining, and reinstatement of attorneys", and "the restraint of persons unlawfully engaging in the practice of law." After the amendment of the North Dakota Constitution in 1976, the Court's jurisdiction became a matter of constitutional mandate. Section 3 of Article VI stipulated that the "Supreme Court shall have authority . . . to promulgate rules and regulations for the admission to practice, conduct, disciplinging, and disbarment of attorneys at law."

The substantive rules adopted by the supreme court covering attorney conduct are contained in the North Dakota Code of Professional Responsibility. These provisions essentially follow the Model Code of Professional Responsibility developed by the American Bar Association.

The procedural rules adopted by the supreme court for handling complaints of attorney misconduct are contained in the North Dakota Rules of Disciplinary Procedure, the Procedural Rules of the Disciplinary Board of the Supreme Court and the Rules of Procedure for Inquiry Committees of the State Bar Assocition. These rules have been tailored to the North Dakota experience to provide an effective and efficient mechanism for exonerating attorneys whose conduct conforms to the Code of Professional Responsibility and for disciplining those whose conduct does not.

The disciplinary Board began 1981 with twenty-six complaints carried over from 1980. During the year, seventy-four new complaints were filed. Table 24 illustrates the nature of the complaints and their disposition.

TABLE 24
SUMMARY OF DISCIPLINARY BOARD COMPLAINTS FOR THE YEAR 1981

New Complaints filed for the year 1981	74
General nature of new complaints filed:	
Neglect - Delay	14
Conflict of Interest	9
Failure to Protect Client Relationship	1
Excessive Fees	9
Failure to Communicate with Client	5
Improper Conduct	19
Lack of Competence	12
Misrepresentation/Fraud	4
Advertising/Solicitation	1
TOTAL	**74**
Disciplinary Proceedings pending from prior year	8
Complaints carried over from previous year	26
Total Complaints for consideration in 1981	108
Disposition of Complaints:	
Dismissed by Inquiry Committee	64
Private Reprimands Issued	7
*Disciplinary Proceedings Pending or Instituted	15
Complaints Pending 12/31/81	22
TOTAL	**108**

**The 15 disciplinary proceedings which are pending involve only 16 attorneys [5 complaints against 1 attorney, 3 complaints each against 2 attorneys, 2 complaints against 1 attorney, 1 complaint against 1 attorney and 1 private reprimand in which a formal review was requested by an attorney].*

Judicial Qualifications Commission

The Judicial Qualifications Commission was created in 1975 through the legislature's enactment of Chapter 27-23, NDCC. It is composed of seven members — one district court judge, one judge of the county court with increased jurisdiction, one lawyer licensed to practice law in this state, and four citizens who are not judges, retired judges, or lawyers — all of whom serve without pay. The judges are elected from their respective state associations, the lawyer is appointed by the executive committee of the State Bar Association of North Dakota, and the citizen members are appointed by the governor. The three-year terms are staggered and no member may serve more than two full three-year terms.

Mr. Ronald Klecker of Minot serves as chairman and Norene Bunker of Fargo as vice chairman of the Commission. The remaining members of the Commission are Judge William A. Neumann, Judge Harold B. Herseth, Dr. Glenn Smith, Mr. Gorman H. King, Sr., and Mr. Lowell W. Lundberg.

The Commission has the authority to review written grievances against judges which allege misconduct or disability and, after a preliminary investigation of the facts and circumstances, determine whether a formal complaint should be filed against a judge. The Commission is further empowered to conduct a formal hearing before itself or an appointed master. Thereafter, the Commission may recommend to the supreme court, where appropriate, that a judge be either censured, suspended from office, retired or removed from office.

On the Commission's recommendation, the supreme court may:

(a) suspend a judge from office without salary when such judge pleads guilty (or no contest) or is found guilty of a crime punishable as a felony or which involves moral turpitude, and remove the judge from office when the conviction becomes final;

(b) retire a judge for disability that seriously interferes with the performance of his duties and is, or is likely to become, permanent;

(c) censure or remove a judge for:
  (i) willful misconduct,
  (ii) willfull failure to perform duties as prescribed by Supreme Court regulation or administrative rule,
  (iii) willful violation of the Rules of Judicial Conduct, or
  (iv) habitual intemperance.

In making its decision, the supreme court reviews the entire record of the formal hearing. The court can then accept, reject or modify the Commission's recommendation.

All proceedings of the Commission prior to the formal hearings are confidential. Formal hearings, though, are open to the public unless the Commission, for good cause, orders them closed. Likewise, the papers, files and records made part of a formal hearing are public records unless the Commission has ordered the hearing closed. In this event, they are confidential until filed by the Commission in the supreme court. Further, all statements given to the Commission are privileged and cannot be used in any action for defamation.

It is important to clarify that the Commission does not function as an appellate court to review judicial decisions for factual or legal errors. Further, it does not have the power to investigate or discipline attorneys, prosecutors or police officers. It may not give legal advise to citizens or represent clients, although it will refer persons to other agencies where appropriate. The Commission's jurisdiction is limited to judicial misconduct, as defined by the Rules of Judicial Conduct and Chapter 27-23, NDCC.

In serving the public and the judiciary, the Commission attempts to meet the dual purpose of accountability and exoneration. By doing so, it confronts and must deal with "one of the fundamental paradoxes of American political life — the need to hold judges accountable for their misconduct without jeopardizing or compromising the essential independence of the judiciary."[1] Within this framework lies the Commission's basic function and continuing challenge.

The Judicial Qualifications Commission began 1981 with seven cases undecided. During the year, twenty-seven new complaints were filed and a total of twenty complaints were completed by the Commission. Table 25 illustrates the nature of the complaints and their disposition.

TABLE 25

JUDICIAL QUALIFICATIONS COMMISSION
SUMMARY OF COMPLAINTS
FOR THE YEAR 1981

New Complaints filed for the year 1981	27
General nature of new complaints filed:	
Lack of Judicial Temperament in Court	2
Failure to Comply with the Law	5
Biased Decisions	4
Delay in Rendering a Decision	8
Failure to afford Complainant due process	6
Conflict of Interest	1
Alleged Outside Influence on Decision	1
TOTAL	**27**
Complaints carried over from previous year	7
Total Complaints for consideration in 1981	34
Disposition of Complaints:	
Dismissed	14
Private Censure	3
Formal Proceedings Instituted or Pending	3
Complaints Pending 12/31/81	14
TOTAL	**34**

Of the 27 complaints filed in 1981:
- 9 were against municipal judges (2 private censures)
- 8 were against county judges with increased jurisdiction
- 4 were against county justices (1 private censure)
- 4 were against district judges
- 2 were against county judges

27 **TOTAL**

[1] William O. Jenkins, Jr., "Two of Michigan's Worst Judges and What their Cases Teach." **Judicature**, Vol. 63, No. 5 (Nov., 1979).

Judicial Council

The North Dakota Judicial Council was established as an arm of the judicial branch of state government in 1927. Present statutory language governing the Judicial Council is found in Chapter 27-15, NDCC.

The Council is composed of the following members:

1. All judges of the supreme court, district courts, and county courts with increased jurisdiction of the state;
2. The attorney general;
3. The dean of the school of law of the university;
4. Five members of the bar who are engaged in the practice of law and who are chosen by the executive committee of the state bar association;
5. All retired judges of the supreme court and district courts of the state; and
6. Two judges of the county court without increased jurisdiction; two county justices, and two municipal judges, selected by the North Dakota Supreme Court.

In general, the Judicial Council is given the duty to make a continuous study of the judicial system of the state to the end that procedure may be simplified, business expedited and justice better administered. The sixty-five members of the Council serve without compensation, but are allowed necessary expenses which are incurred in the discharge of their duties. The chief justice of the North Dakota Supreme Court serves as Chairman of the Judicial Council.

There are two regular meetings of the Judicial Council held each year and the chairman may call special meetings from time to time.

The Judicial Council employs an executive secretary to assist it in its duties. Through the Council, the Executive secretary is empowered to gather and publish statistical data concerning the courts, judges, and officers, thereof; to make recommendations to the Council for improvement of the judicial system; to hold public hearings on behalf of the Council; and in general to lend any assistance to the Council in its efforts to improve the state's judicial system.

Membership of the North Dakota Judicial Council

JUSTICES OF THE SUPREME COURT

Ralph J. Erickstad, Chief Justice, Bismarck
Wm. L. Paulson, Justice, Bismarck
Vernon R. Pederson, Justice, Bismarck
Paul M. Sand, Justice, Bismarck
Gerald W. VandeWalle, Justice, Bismarck

JUDGES OF THE DISTRICT COURTS

NORTHWEST JUDICIAL DISTRICT

*Wallace D. Berning, Minot
Everett Nels Olson, Minot
Jon R. Kerian, Minot
Wm. M. Beede, Williston
Bert L. Wilson, Williston

NORTHEAST JUDICIAL DISTRICT

*Douglas B. Heen, Devils Lake
James H. O'Keefe, Grafton
Wm. A. Neumann, Rugby

NORTHEAST CENTRAL JUDICIAL DISTRICT

*A. C. Bakken, Grand Forks
Kirk Smith, Grand Forks
Joel D. Medd, Grand Forks

EAST CENTRAL JUDICIAL DISTRICT

*Norman J. Backes, Fargo
John O. Garaas, Fargo
Lawrence A. Leclerc, Fargo
Michael O. McGuire, Fargo

SOUTHEAST JUDICIAL DISTRICT

*Robert L. Eckert, Wahpeton
M. C. Fredricks, Jamestown
John T. Paulson, Valley City

SOUTH CENTRAL JUDICIAL DISTRICT

*Benny A. Graff, Bismarck
Gerald G. Glaser, Bismarck
Dennis A. Schneider, Bismarck
Wm. F. Hodny, Mandan
Larry M. Hatch, Linton

SOUTHWEST JUDICIAL DISTRICT

*Maurice R. Hunke, Dickinson
Lyle G. Stuart, Hettinger
Allan L. Schmalenberger, Dickinson

JUDGES OF THE COUNTY COURTS WITH INCREASED JURISDICTION

C. James Cieminski, Valley City
Donald M. Cooke, Fargo
Ronald M. Dosch, Devils Lake
Wm. G. Engelter, Mandan
Thomas D. Ewing, Dickinson
Gary A. Holum, Minot
Harold B. Herseth, Jamestown
Frank J. Kosanda, Grand Forks
Samuel D. Krause, Fessenden
Bayard Lewis, Wahpeton
Robert Mandel, Stanton
Michael Steffan, Minnewaukan
George Margulies, Lisbon
Thomas W. Nielson, LaMoure
Burt L. Riskedahl, Bismarck
Theodore Weisenburger, Grafton
Gordon Thompson, Williston

JUDGES OF THE COUNTY JUSTICE COURTS

R. C. Heinley, Carrington
Paul T. Crary, Wahalla

JUDGES OF THE MUNICIPAL COURTS

Robert Brown, Mayville
Daniel Buchanan, Jamestown

ATTORNEY GENERAL

Robert O. Wefald, Bismarck

UND SCHOOL OF LAW

Karl Warden, Dean, Grand Forks

MEMBERS OF THE BAR

J. Phillip Johnson, Fargo
Patrick J. Maddock, Grand Forks
Walfrid, B. Hankla, Minot
Charles A. Feste, Fargo
Paul G. Kloster, Dickinson

JUDGES OF THE COUNTY COURTS WITHOUT INCREASED JURISDICTION

R. M. Lundberg, Washburn
Ross McNea, Bottineau

RETIRED JUDGES OF THE SUPREME AND DISTRICT COURTS

Emil A. Giese, Green Valley, AZ
Hamilton E. Englert, Valley City
C. F. Kelsch, Mandan
Roy A. Ilvedson, Minot
Eugene A. Burdick, Williston
Roy K. Redetzke, Eugene, OR
Wallace E. Warner, Green Valley, AZ
Norbert J. Muggli, Dickinson

EXECUTIVE SECRETARY

William G. Bohn

**Denotes Presiding Judge*